

Serenity Way, Vacy

Proposal Title : **Serenity Way, Vacy**

Proposal Summary : **It is proposed to rezone land at Serenity Way, Vacy from SP2 Infrastructure to R5 Large Lot Residential, and to vary minimum lot size provisions.**

PP Number : **PP_2016_DUNGO_003_00**

Dop File No : **16/15069**

Proposal Details

Date Planning
Proposal Received : **23-Nov-2016**

LGA covered : **Dungog**

Region : **Hunter**

RPA : **Dungog Shire Council**

State Electorate : **UPPER HUNTER**

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

LEP Type : **Spot Rezoning**

Location Details

Street : **Serenity Way**

Suburb : City : **Vacy** Postcode : **2421**

Land Parcel : **Lot 9 DP 1009184**

DoP Planning Officer Contact Details

Contact Name : **Dylan Meade**

Contact Number : **0249042718**

Contact Email : **dylan.meade@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Paul Minett**

Contact Number : **0249957740**

Contact Email : **paulm@dungog.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub **Hunter Regional Plan 2036**

Consistent with Strategy : **Yes**

Regional Strategy :

Serenity Way, Vacy

MDP Number :

Date of Release :

Area of Release (Ha) **1.80**

Type of Release (eg
Residential /
Employment land) :

Residential

No. of Lots : **0**

No. of Dwellings
(where relevant) : **2**

Gross Floor Area : **0**

No of Jobs Created : **0**

The NSW Government **Yes**

Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been **No**

meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting
Notes :

Delegation Authorisation

The Minster delegated his plan making powers to Council's in October 2012, Dungog Shire Council did not accept this delegation.

External Supporting
Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

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

Comment : **A statement of objectives states that the planning proposal seeks to zone the subject site from SP2 Infrastructure to R5 Large Lot Residential large lot residential.**

The statement of objectives is supported.

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

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

Comment : **The explanation of provisions explains that the planning proposal will amend the zone and lot size maps of the Dungog LEP 2014.**

The explanation of provisions is supported.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

3.1 Residential Zones

* May need the Director General's agreement

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

SEPP No 1—Development Standards
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Infrastructure) 2007
SEPP (Mining, Petroleum Production and Extractive Industries) 2007

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

The site is owned by Council. There is no current guidance on how Council should manage the rezoning of sites it owns.

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

If No, explain :

The planning proposal identifies a number of SEPPs and Section 117 Directions that are not applicable to the planning proposal. These need to be removed prior to exhibition so that applicable SEPPs (SEPPs 44 and 55) and Section 117 Directions (Directions 3.1, 3.4, 4.4 and 5.1) are clear and addressed appropriately.

There is no discussion of why the planning proposal is considered consistent (or not consistent) with applicable Section 117 Directions. This needs to be included prior to exhibition.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : **The planning proposal does not identify proposed community consultation.**

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 :

The planning proposal contains sufficient information to enable Gateway assessment. However, it is recommended that the planning proposal be updated to adequately address applicable and relevant SEPPs and Section 117 Directions, Hunter Regional Plan 2036, and ensure overall consistency with 'A Guide to Preparing Planning Proposals'.

Proposal Assessment

Principal LEP:

Due Date : **December 2014**

Comments in relation to Principal LEP : **The Dungog LEP 2014 is in force.**

Assessment Criteria

Need for planning
proposal :

The planning proposal is required to rezone land that was previously used as a sanitary waste facility to allow residential development.

Consistency with
strategic planning
framework :

HUNTER REGIONAL PLAN 2036

The proposal is considered consistent with Action 21.1 as the site is located within an established rural-residential area. The proposal respects the landscape attributes of the surrounding area.

The proposal is inconsistent with Action 21.2 as rural residential development does not achieve a compact settlement. The inconsistency is considered minor as it is proposed to rezone a small site (1.6 ha) in an established rural residential area.

Action 22.5 is applicable as it is proposed to rezone land to rural-residential development. The proposal is consistent with the criteria listed under this Action in that it does not impact on important agricultural land or other resources, is not within a drinking water catchment, and is not on land that is likely to be needed for urban development. The site is identified as being bush fire prone, and until Rural Fire Service comments are received, it cannot be determined if the proposal will result in greater natural hazard risk.

The submitted planning proposal does not address these Actions or relevant sections of the Hunter Regional Plan as required by the Section 117 Direction. It is recommended that Council update the planning proposal prior to exhibition to address relevant sections.

LOCAL PLANNING STRATEGY

Dungog local government area does not have an endorsed local planning strategy. Therefore the proposal is required to justify its consistency with the strategic framework through the Hunter Regional Plan 2036.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

***SEPP 44 - Koala Habitat**

The proposal states that the site may contain koala habitat as it may contain areas of native vegetation of the types listed in Schedule 2 of the SEPP 44.

The site is predominately cleared except for a few trees on the boundary. It is considered that in the event that these trees are koala habitat, any impacts on the habitat can be dealt with as part of any subsequent development application with appropriate siting of a dwelling.

***SEPP 55 - Remediation of Land**

SEPP 55 is applicable to the planning proposal as the site was previously used as sanitary waste facility. It is proposed to rezone the site to permit residential uses.

An environmental site assessment (ESA) was undertaken in October 2015. The assessment identified that remediation of the site was required for areas impacted by tar and / or microbiological contaminants in order to bring environmental conditions to a level suitable for residential land use.

The report 'Remediation Works Serenity Way, Vacy' by RCA Australia identifies that initial remediation works were undertaken in December 2015 in accordance with the ESA. The report states that further testing of the site was undertaken after remediation of the site was completed. Further testing found that microbiological counts were no longer detected and that delineation of the tar impacted area is considered to have been achieved with the exception of the north western part of the site.

In regards to the affected north western part of the site, the report finds that risk to human health would increase with the development for residential uses through disturbance of soil. The report identifies that the need for further remediation is considered dependent on the layout of any proposed residential development. RCA have prepared a management protocol for the site which details the constraints associated with the use of the site and measures that need to be implemented to minimise the potential impact to human health. The report recommends that details of the management protocol are listed on the S.149

Certificate.

It is considered that the proposal is consistent with SEPP 55 as the preliminary investigations identify that remediation of the site can occur to a level suitable for residential use. Consultation is recommended with the EPA to determine if the management protocol is appropriate for the site.

***Other SEPPs**

The planning proposal identifies a number of other SEPPs as relevant including SEPP No 1—Development Standards, SEPP (Building Sustainability Index: BASIX) 2004, SEPP (Exempt and Complying Development Codes) 2008, SEPP (Infrastructure) 2007 and SEPP (Mining, Petroleum Production and Extractive Industries) 2007.

None of these are considered relevant to the planning proposal. It is recommended that Council remove reference to these prior to exhibition.

SECTION 117 DIRECTIONS

***3.1 Residential Zones**

This direction is applicable as it proposed to rezone the site to a residential zone (R5 Large Lot Residential). The proposal is considered consistent with the direction as it will make more efficient use of existing infrastructure and services.

***3.2 Caravan Parks and Manufactured Home Estates**

This direction is not considered applicable to the planning proposal and should be removed prior to exhibition.

***3.3 Home Occupations**

This direction is not considered relevant to the planning proposal and should be removed prior to exhibition.

***3.4 Integrating Land Use and Transport**

The planning proposal is considered inconsistent with this direction as rural residential development increases car dependence and does not support viable public transport operations. The inconsistency is considered of minor significance as it is proposed to rezone a small sized site (1.6 ha) that will enable the creation of two lots.

***4.4 Planning for Bushfire Protection**

This direction is applicable as the site is mapped as bushfire prone land. In accordance with the direction, Council must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

***5.10 Implementation of Regional Plans**

The objective gives legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans. As discussed above, the planning proposal is considered consistent with the Hunter Regional Plan 2036, but advice is required from the RFS in regards to greater natural hazard risks resulting from the rural residential rezoning.

Environmental social
economic impacts :

There are no identified social, economic or environmental impacts other than those covered by the applicable Section 117 Directions and SEPPs.

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Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Other**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

No additional studies are require necessary.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal Lot 9 DP 1009184 Serenity Way Vacy - October 2016.pdf	Proposal	Yes
Dungog Shire Council_23-11-2016_Request for Gateway Determination - Lot 9 DP 1009184 Serenity Way Vacy_.pdf	Proposal Covering Letter	Yes
Remediation Works Former Sanitary Waste Facility Serenity Way Vacy June 2016.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions: **3.1 Residential Zones**
3.2 Caravan Parks and Manufactured Home Estates
3.3 Home Occupations
3.4 Integrating Land Use and Transport
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies

Additional Information : **1. Prior to undertaking community consultation, the planning proposal is to be updated to:**

- (a) provide written comment on the consistency of the planning proposal with applicable Section 117 Directions (3.1, 3.4, 4.4, and 5.10);
- (b) provide an assessment of the planning proposal's consistency with the vision, direction and actions of Hunter Regional Plan 2036 as required by Section 117 Direction 5.10 ; and
- (c) remove reference to State Environmental Planning Policies that are not relevant to the proposal.

2. 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 is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Environment 2013) and must be made publicly available for a minimum of 14 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Environment 2013).

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- NSW Rural Fire Service (in relation to Section 117 Direction 4.4 – Planning for Bushfire Protection)
- NSW Environment Protection Agency (in relation to SEPP 55 - Remediation of Land)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

4. 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).

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The planning proposal seeks to rezone a small portion of land previously used as a sanitary waste facility to allow rural residential development. The site is minor and is located within an established rural residential area. Providing bushfire risk and contamination can be managed to allow residential development, the proposal is supported.

Signature:



Printed Name:

Robert Hodgkins

Date:

8/12/16.