

257 Hermitage Road, Pokolbin - RU1 to RU4 land

Proposal Title : **257 Hermitage Road, Pokolbin - RU1 to RU4 land**

Proposal Summary : **The planning proposal seeks to**

- **Rezone parts of the land to RU4 and enable subdivision of 10ha lots (up to 30 lots).**
- **Recognise the significance of the site as a north western gateway into the vineyards district**

PP Number : **PP_2016_SINGL_003_00**

Dop File No : **15/16887**

Proposal Details

Date Planning : **22-Apr-2016**

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 : **257 Hermitage Road**

Suburb : **Pokolbin**

City :

Postcode : **2320**

Land Parcel : **Lot 5 DP 823737**

DoP Planning Officer Contact Details

Contact Name : **James Shelton**

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RPA Contact Details

Contact Name : **Ken Horner**

Contact Number : **0265787290**

Contact Email : **khorne@singlton.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub : **Lower Hunter Regional**

Consistent with Strategy : **No**

Regional Strategy : **Strategy**

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MDP Number :

Date of Release :

Area of Release (Ha) **300.00**

Type of Release (eg

Residential

:

Residential /

Employment land) :

No. of Lots : **0**

No. of Dwellings

30

(where relevant) :

Gross Floor Area : **0**

No of Jobs Created :

0The 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 :

External Supporting

Notes :

The 300ha parcel of land is mostly cleared with grazing activity. It is currently zoned RU1 Primary Production with minimum lot size provisions for the subdivision of 40ha parcels. The lot has approximately 4km of road frontage along Hermitage and Old North Roads.

The site lies adjacent to a historical subdivision, where subdivision of almost 70 lots was previously permitted to 10 hectares or lower. Council considers this a successful example of small scale boutique style agriculture and tourism developments and are seeking to replicate this scenario on the subject site.

Council proposes to use these precincts to establish a 'gateway' entrance to the vineyards district from the west.

Adequacy Assessment**Statement of the objectives - s55(2)(a)**Is a statement of the objectives provided? **Yes**

Comment :

The objective of the Planning Proposal is to

- Rezone the land from RU1 Primary Production to RU4 Primary Production Small Lots.
- Introduce a new local provision that enables subdivision to a minimum lot size of 10ha, with a dwelling entitlement, where the consent authority is satisfied that the dwelling is required for viticulture or tourist related uses (yielding up to 30 lots).
- Recognise the significance of the site as a north western gateway into the vineyards district by enabling development as described above.

Explanation of provisions provided - s55(2)(b)Is an explanation of provisions provided? **Yes**

Comment :

The explanation of provisions provides the parameters to amend Singleton LEP 2013. this will include an amendment to the land zoning map and may require an amendment to the minimum lot size map

The PP does not include the draft local clause which will require further investigation, however the intentions of the clause are clear.

More significantly however the PP does not provide any guidance or policy on how the clause will be applied and regulated overtime. For example what area of viticulture is adequate and/or what extent of tourism is required to justify the subdivision and dwelling. Nor does the PP explain whether there is a requirement for this viticulture/tourism use to be maintained overtime and, if so, how ongoing maintenance will be monitored etc.

This matter is further discussed in the assessment of the proposal.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

* May need the Director General's agreement

1.5 Rural Lands

2.3 Heritage Conservation

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

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 No 55—Remediation of Land

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Rural Lands) 2008

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

The site forms part of the Critical Industry Cluster Land (Viticulture) in the Strategic Agricultural Land Map under State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007. The Critical Industry Cluster originated in the Upper Hunter Strategy Regional Land Use Plan (2012) and this plan should be considered when assessing the proposal.

The site is located within the Pokolbin vineyards district that is recognised in the Lower Hunter Regional Strategy. This Strategy should be considered in assessing this proposal.

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

If No, explain :

Rural Lands SEPP and Upper Hunter Strategic Regional Land Use Plan (UHSRLUP)

While the PP provides arguments that the proposal is consistent with the planning principles, the Department's assessment of the Rural Lands SEPP and UHSRLUP identified inconsistencies as outlined in the Assessment of the Planning Proposal.

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

The maps provided are adequate for community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

The proposal is not considered a low impact proposal, hence if the gateway is approved, a 28 day exhibition would be appropriate as the proposal has significant implications for the vineyards district.

Additional Director General's requirements

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

If Yes, reasons : **If the recommendation is not adopted, then targeted consultation with the Hunter Valley Wine Industry, Hunter Valley Wine Country Tourism Association and the Department of Primary Industries (Agriculture) is required prior to the public exhibition for 28 days, with the response from these groups being addressed within the PP prior to exhibition.**

Note that the recommendation includes the need for further strategic work in the vineyards district to provide greater certainty for the future development in the area.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **No**

If No, comment : **There is insufficient strategic justification to support the expansion of this type of development at this point in time. It is considered that the proposed provisions are inadequate to manage potential land use conflict and that the proposal has the potential to establish a precedent that threatens the Pokolbin Vineyards District and the Viticultural Critical Industry Cluster more broadly.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Singleton Standard Instrument was published in September 2013.**

Assessment Criteria

Need for planning proposal :

Council identifies that the proposal is needed because of;

- 1. perceived tourism accommodation demand and a desire to establish a 'gateway' to the vineyards.**
- 2. the current RU1 zone presents potential land use conflict; and**
- 3. it is consistent with the adjoining RU4 land which are 10ha lots and associated agricultural, tourism and residential uses.**

1. Council has attempted to justify the proposal based on the tourism potential of the area and increasing tourism demand. However they have also dismissed the use of a SP3 Tourism zone because the area is a Critical Industry Cluster (CIC) for Viticulture and the focus on tourism should be to support agricultural production rather than dominate. The Department of Primary Industries have cautioned against the growth of Agri-tourism in their submission on the Hermitage Road Planning Study. There is insufficient evidence to suggest that tourism at 10 hectare minimum lot size, extending beyond the current boundaries of the existing subdivision, will not create further land use conflict nor impact on agricultural productivity more broadly. It is also considered that such a proposal will establish an undesirable precedent for the Pokolbin Vineyards District and CIC more broadly.

With regards to tourism demand the data presented on tourism accommodation illustrates a growth of 1.4% in tourism across the Hunter Region, requiring an additional 400 accommodation rooms between 2013-2020. There has been no assessment of the portion of these rooms required within the vineyards district nor the extent by which 2014/15 amendments for an additional 250 self contained tourist units within the vineyards have addressed demand. Additional information is provided on the occupancy rates of self contained accommodation within the vineyards, suggesting occupancy rates are increasing and reached 47.9% between April -October 2012. The assumption appears to be that this occupancy rate does not need to increase further and that additional supply is

required. Assumptions regarding tourist numbers and travel patterns, as well as population growth in the broader area and its contribution to increased tourism demand, requires further consideration.

2. Permissible land uses in the adjoining RU1 zone (e.g. heavy industrial storage, truck Depots, extractive industries, offensive industries etc.) have been identified as potentially causing land use conflict within the area. These uses are only permissible with consent and the minimum lot size is 40 hectares, limiting further subdivision potential. The potential land use conflict can be managed through the development application process. Given the sites location and the typical access and location attributes of the above types of development activities, it is highly unlikely that such activities would occur. Simply extending the RU4 zone will not resolve land use conflict, but bring RU4 uses in closer proximity to more accessible areas of RU1 zoned land. This issue was identified by the Department of Primary Industries who raised concerns with expanding the RU4 zone in their submission to Council on the Hermitage Road Planning Study.

3. The site lies adjacent to a historical subdivision, where subdivision of almost 70 lots was permitted to 10 hectares or lower. The proposal argues that subdivision to 10 hectares is consistent with the existing land use pattern in the area, however such subdivision has only been permitted on one boundary to the site and larger lots dominate elsewhere. Council considers this existing subdivision a successful example of small scale boutique style agricultural and tourism developments and are seeking to replicate this scenario on the subject site. However the contribution to the agricultural productivity of the Critical Industry Cluster of this style of development is questionable.

Consistency with strategic planning framework :

Upper Hunter Strategic Regional Land Use Plan (2012), State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 and related s117 directions.

The site forms part of the Critical Industry Cluster Land (Viticulture) in the Strategic Agricultural Land Map under State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007. The Critical Industry Cluster originated in the Upper Hunter Strategy Regional Land Use Plan (2012) and is described as a localised concentration of interrelated productive industries based on an agricultural product (in this case viticulture), that provides significant employment opportunities and contributes to the identity of the region. The Plan requires Councils to include appropriate zonings and provisions to protect the identified land.

The proposal identifies that the land is suitable for viticultural production and argues that it is protecting the Critical Industry Cluster by permitting smaller subdivision because this will facilitate horticultural and viticultural opportunities. Council cites the existing neighbouring subdivision as an example of this. However the contribution to the agricultural productivity of the Critical Industry Cluster of this style of development is questionable. It is considered that the proposal will more likely facilitate tourism opportunities that may be inconsistent with the agricultural value of the land and lead to increased land use conflict.

The historical subdivision contains more than 80 hectares of vines across some 22 individual lots (out of a total 67). The smallest vineyard is estimated at 0.23 hectares and the largest 6.4 hectares. While some of these are producing grapes, and there are several cellar doors, they are much smaller than the average operational vineyard found within the LGA which is 15 hectares. Tourism is a larger component of the businesses in the area with approximately 26 lots (out of the total 67) operating with guest accommodation and/or restaurants. Finally an estimated 33 lots out of the 67 provide only residential uses. While there may be a place for this type of development within the Vineyard District, proceeding without a broader strategic plan for the ongoing protection of the productivity of the Critical Industry Cluster poses too great a risk.

The July 2014 Report by JBA (supporting the Proposal) indicates that "Hermitage Road is the most significant vineyard area in the Singleton LGA and forms the northern section of the Pokolbin vineyard area that dominates the Hunter Valley wine industry." The area is considered significant and a strategic plan for the broader vineyards district is necessary before substantial change is made. Any development not aligning with the current strategic planning framework may have a significant economic, social and scenic quality impact on the district.

The NSW Department of Trade and Investment has highlighted the coal exploration potential and petroleum exploration licence on the land and has raised concerns with further fragmentation and the potential for intensification of dwellings within the area. It is noted that due to the location of the site within the CIC a site verification certificate or gateway certificate would be required for any mining related proposal however despite this, consistency with S117 direction 1.3 remains unresolved.

Lower Hunter Regional Strategy

While the area covered by the Lower Hunter Regional Strategy does not apply to this site, the Cessnock LGA component of the Pokolbin Vineyards district has specific planning considerations for the vineyards district, being:

"The vineyards district experiences pressure for development that is often inconsistent with its rural/grape-growing character. Development in the vineyards district, therefore, needs to be carefully managed to avoid detracting from its character."

The dominant character of the vineyards district is 40ha lots in a rural setting. The proposal's impact on the broader districts character is inconclusive and unknown.

Rural Lands SEPP and related s117 directions

While the PP provides arguments that the proposal is consistent with the SEPP, the Department's assessment identified inconsistencies and uncertainty regarding the PP's consideration of clause 7, Rural Planning Principles and clause 8 - Rural Subdivision Principles. In relation to this proposal s117 Ministerial direction 1.5 Rural Lands is also relevant.

The State Environmental Planning Policy Rural (the SEPP) provides the state policy for the management, development and protection of rural lands. The SEPP is further supported by

The proposal argues that it is consistent with the rural planning principles of the SEPP because it will increase the agricultural intensity of the land, facilitating small scale boutique style developments and expanding the tourism value of rural lands. However the evidence provided to support this view is limited and the promotion of Agri-tourism is cautioned by Department of Primary Industries in their submission on the proposal. DPI in particular advises that for agriculture industries to be sustainable, tourism needs to be ancillary and not dominate the area. The proposal is not considered to balance the social, economic and environmental interest of the community as required by the SEPP.

The proposal argues that it is consistent with the rural subdivision principles of the SEPP because it is consistent with the predominant surrounding lot size and because the proposed subdivision will increase the agricultural productivity of the land. While there are existing 10ha lots adjoining this site, this does not lessen the impact of further fragmentation of the land, nor recognise the lot size of the broader area. The lot size controls in place currently enable the subdivision to 40ha lots that provide for viticulture and tourism activities at a scale consistent with the majority of the Pokolbin area and establishes the rural character of the area that is key to the visitor experience.

The existing 10ha lots adjoining this area are an anomaly when compared to the rest of the Pokolbin area. There is insufficient evidence to demonstrate that this type of development (10ha lots) should be expanded, or that this site is an appropriate location, and that the further subdivision of this land will be beneficial to the district. The demand for smaller lots has been expressed by individual owners but not by any agency or industry body as support for change to the current approach to planning and minimum lot sizes for the area.

The proposal indicates that it will minimise rural land use conflict by adherence to Council's development control plan. However Council's development control plan provides controls considerably more generous than those provided for the remainder of the Critical Industry Cluster and were recommended for review in 2014 to ensure the protection of the viticulture industry. It is not certain that the existing controls are adequate to minimise land use conflict if the 10 hectare subdivision pattern is to expand beyond its current limited location.

There is no evidence nor is there any strategic body of work to support the extension of the RU4 zone into this area. This issue was identified by the Department of Primary Industries who raised concerns with land use conflict as a result of expanding the RU4 zone in their submission to Council on the Hermitage Road Planning Study.

LOCAL STRATEGIES

Singleton Land Use Strategy 2008

The strategy provides direction for rural planning:

"Where the predominant land use is other than grazing and where lot sizes are less than this already, the 40ha minimum should be retained".

The Planning Proposal is inconsistent with the local strategy in this regard and the departure from this direction has not been justified. It is noted that the Strategy is under review but merely dismissing the inconsistency as because the strategy is outdated is

inadequate justification.

Hermitage Road Study (Peter Andrews 2014)

The proposal is inconsistent with the Hermitage Road Pokolbin Planning Study which was prepared for Singleton Shire Council for the purpose of advising on this proposal. The study recommended that the 40 hectare minimum lot size be retained and that further, more detailed work on planning for the area should be undertaken.

The study also included 11 key issues to be addressed if the proposal was to proceed. JBA planning consultants have prepared a response to the 11 issues.

However this response:

- does not recognise or address the proposals inconsistency with the rural planning and rural subdivision principles of the Rural Lands SEPP.
- does not recognise that the Upper Hunter Strategic Regional Land Use Plan applies to the site or that the site forms part of the critical industry cluster (viticulture). It therefore does not address the inconsistencies with this State Plan.
- does not justify its inconsistency with the Singleton Land Use Strategy 2008.

Environmental social
economic impacts :

The impact of this proposal on the environment is considered to be able to be managed at the local government level through Development Applications and appropriate conditions of consent. The supporting reports included threatened species and habitat investigations that identified no constraints over the site, however they did identify potential habitat trees and environments that could be retained and managed through Development consent conditions.

The holistic social and economic impact of the proposal on the Pokolbin vineyards district is unknown. The Pokolbin district is the most accessible of the Hunters Vineyards districts and receives the most visitors and activity. One of the key components to its success is maintaining its rural character and charm, hence any departure from the existing planning provisions such as the 40ha provision that alter the rural character needs to be considered carefully and within the broader vision for the Pokolbin district.

It is noted that there is a lack of detailed strategic planning guidance to assist in the consideration of planning outside the status quo. The proposal provides tourism data that does not account for the existing potential supply that exists within the district already. Economic impacts of the proposal on existing agricultural and tourism businesses is unknown.

Assessment Process

Proposal type : **Inconsistent** Community Consultation Period : **28 Days**

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

Public Authority Consultation - 56(2)(d) : **NSW Department of Primary Industries - Agriculture**

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

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **The proposal is inconsistent with the Upper Hunter Strategic Regional Land Use Plan (2012), which requires Councils to include appropriate zonings and provisions to protect the Critical Industry Cluster Land (Viticulture) it identified.**

The proposal is inconsistent with the State Environmental Planning Policy (Rural Lands) 2008, its Rural Planning Principles and Rural Subdivision Principles.

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The proposal is inconsistent with the Singleton Land Use Strategy 2008 which recommends that rural land retain its 40 hectare minimum lot size.

The proposal is inconsistent with the Hermitage Road Pokolbin Planning Study which was prepared for Singleton Shire Council for the purpose of advising on this proposal and recommended that the 40 hectare minimum lot size be retained and that further, more detailed work on planning for the area should be undertaken.

The proposed local provision is considered difficult to administer and regulate and therefore unlikely to achieve Councils' intended objective.

The adjoining subdivision is cited as an example of successful intensive agricultural precinct, however the submitted land use audit demonstrates limited agricultural activity and a dominance of tourism related enterprises and individual residential dwellings.

The Department of Primary Industries (Agriculture) have previously provided comment on the proposal as part of a broader submission. The promotion of Agri-tourism such as this is cautioned because, for agriculture industries to be sustainable, tourism needs to be ancillary and not dominate the area. Their submission specifically recommends against the rezoning of the site to RU4 Primary Production Small Lots due to the likelihood of landuse conflict.

There is insufficient strategic justification to support the expansion of this type of development at this point in time. It is considered that the proposal has the potential to establish a precedent that threatens the Pokolbin Vineyards District and the Viticultural Critical Industry Cluster more broadly.

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

If Yes, reasons : **The matters raised in this assessment are too significant to be resolved through an individual planning proposal or by an individual council.**

Identify any additional studies, if required. :

If Other, provide reasons :

No additional studies have been identified because the proposal is not recommended to proceed.

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
Acoustic Assessment - Hermitage Road Planning Proposal Report.pdf	Study	Yes
Appendix C_ Soil , Land and Agricultural Assessment ReportLR.pdf	Study	Yes
Appendix G_Constraints and Opportunities AssessmentLR.pdf	Study	Yes
Bushfire Assessment Appendix - Hermitage Road Planning Proposal Report.pdf	Study	Yes
Heritage Assessment - Hermitage Road Planning Proposal Report.pdf	Study	Yes
JBA Planning Report - Hermitage Road Planning Proposal Report..pdf	Study	Yes

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Land use and lot size report - Hermitage Road Planning Proposal Report.pdf	Study	Yes
Planning study submission - Hermitage Road Planning Proposal Report.pdf	Study	Yes
Proposed subdivision plan - Hermitage Road Planning Proposal Report.pdf	Map	Yes
Singleton Council_06-04-2016_Requesting Gateway Determination - Revised planning proposal - 257 Hermitage Road Singleton_.pdf	Proposal Covering Letter	Yes
Singleton Shire Council revised PP - Lot 5 DP 823737pdf	Proposal	Yes
Council Resolution.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions: **1.2 Rural Zones**
 1.3 Mining, Petroleum Production and Extractive Industries
 1.5 Rural Lands
 2.3 Heritage Conservation
 4.4 Planning for Bushfire Protection
 5.1 Implementation of Regional Strategies
 6.1 Approval and Referral Requirements

Additional Information :

Supporting Reasons : **The key issue associated with this proposal relates to its potential impacts on the agricultural significance of the Pokolbin Vineyards District and the Critical Industry Cluster (Viticulture) more generally.**

Signature:



Printed Name:

K O'Flaherty

Date:

27-5-16