

*Planning and Sustainable Environment Report (Items Requiring Decision)***DP&SE43/15 Planning Proposal: Lot 5 823737, 257 Hermitage Road, Pokolbin****FILE:LA8/2012**

A report was provided seeking initial support from Council for a Planning Proposal for 257 Hermitage Road, Pokolbin, prepared by Hunter Valley Planning which sought to amend the Singleton Local Environmental Plan 2013 for the purposes of facilitating the subdivision of the land into rural small holdings, with a minimum lot size of 10ha and which would enable the subsequent development of the land for the purposes of establishing a permanent dwelling on each of the (created) lots, but only in association with the integration of land uses (on each of the lots) consistent with the objectives of the RU4 Primary Production Small Holdings zone.

215/15 **RESOLVED** that :

1. Council support the attached Planning Proposal for Lot 5 DP 823737, 257 Hermitage Road, Pokolbin, (LA 8/2012, as amended, and forward the Planning Proposal to the NSW Department of Planning & Environment in accordance with the NSW State Government Local Environmental Plan (LEP) Gateway Process.
2. Subject to the support of NSW Department of Planning & Environment through the NSW State Government Local Environmental Plan (LEP) Gateway Process Council resolve to prepare a Draft Development Control Plan for the site which recognises the inherent opportunity to facilitate detailed site planning for the development and conservation of the land, consistent with achieving a 'gateway landmark' at the site to Council's satisfaction.

(Thompson/Keown)

*Upon being put to the meeting, the motion was declared carried.
For the Motion were Crs S Moore, G Adamthwaite, T McNamara, V Scott, B Keown, D Thompson, T Capsanis, R Rogers, H Diemar-Jenkins and J Martin Total (10).
Against the Motion was Nil Total (0).*

*General Manager's Report (Items for Information)***GM36/15 Progress of the Branxton Subregional Land Use Strategy & Structure Plan and the Dalwood Road Planning Proposal****FILE:LA4/2010-02**

This item was considered earlier in the meeting.

NOTED

- 43. Planning Proposal: Lot 5 823737, 257 Hermitage Road, Pokolbin** **FILE: LA8/2012**
Author: Julie Wells
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Applicant: Belford Land Corporation Pty. Ltd.
Owner: Belford Land Corporation Pty. Ltd.
Land and Location: Lot 5 DP 823737, 257 Hermitage Road, Pokolbin
Zoning: RU1 Primary Production
Proposal: (1) Planning Proposal to rezone the land to RU4 Primary Production Small Lots & to facilitate the subdivision of the land into 10ha lots (minimum) with integrated land uses consistent with the RU4 Primary Production Small Lots Zone (2) Preparation of an associated (Draft) Development Control Plan

Date of Planning

Proposal Application: 29 June 2012

Responsible Officer: Julie Wells

Executive Summary

A Planning Proposal (PP) for the subject site, prepared by Hunter Valley Planning, was submitted to Council in March, 2012. The proposal, at that time, sought to facilitate 'primary production and tourism in conjunction with rural dwellings'. The proposal included a specific subdivision layout for 50 lots on the site, ranging in size from 4ha to 12ha.

At the time the PP was submitted to Council, two (2) additional PPs were also submitted by other landowners in the locality. In response to the three (3) PPs and the need for their consideration in a strategic context, Council resolved to prepare a review of the planning controls for the 'Hermitage Road Precinct'.

The adopted study (prepared for Council by Peter Andrews & Associates Pty. Ltd.) recommended that this site be rezoned from RU1 Primary Production Zone to RU4 Primary Production Small Lots, and maintain its 40ha minimum lot size for further subdivision. Given that the PP seeks to subdivide the land into rural small holdings, maintenance of the 40ha minimum lot size precluded its positive recommendation.

Notwithstanding, the study included a suite of issues that a revised PP for the site would be required to address in the event that Council resolved to support the matter without regard to its recommendations.

The revised PP addressed these matters. A summary of the revised PP is located at **Attachment 1**, including an associated reduction in development density (maximum of 30 lots). Final site development density can only be established after detailed planning occurs consistent with any further relevant detail and in the associated preparation of site master planning through a Development Control Plan (DCP) for the site.

The primary purpose of this report is to seek initial support from Council for a PP which seeks to amend Singleton Local Environmental Plan 2013 for the purposes of facilitating

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the subdivision of the land into rural small holdings, with a minimum lot size of 10ha and which enables the subsequent development of the land for the purposes of establishing a permanent dwelling on each of the (created) lots, but only in association with the integration of land uses (on each of the lots) consistent with the objectives of the RU4 Primary Production Small Holdings zone.

To achieve the outcome described above, the land will need to be rezoned from RU1 Primary Production to RU4 Primary Production Small Lots and prescribe the minimum lot size and the proposed integration of land uses via an LEP mechanism comprising either the addition of a local provisions clause or an addition to Schedule 1. Preliminary discussions with the Department of Planning & Environment have recognised the likely complexity of proposed LEP amendments required to achieve the outcome described and have advised that, subject to support of the PP by Council and by themselves through a positive 'gateway determination', further extensive dialogue would need to occur with the Department and with Parliamentary Counsel regarding the most appropriate mechanism(s) to achieve the required outcome.

Should Council and the Department of Planning & Environment resolve to support the PP it will be necessary for a concurrent DCP to be prepared to support the detailed planning and conservation of the site. The preparation of a DCP for the site was discussed in detail with the proponent of the PP and comprehensive support given to its preparation. Consequently, a further recommendation of this report is for Council to resolve to prepare a site specific DCP for the site to facilitate its detailed planning.

The recent construction of the Hunter Expressway has created a prominent point of entry to Hunter Wine Country at its intersection with Hermitage Road. The land, the subject of this report, is located in direct proximity to this intersection: a gateway location. The PP, with associated detailed planning through the provision of a DCP, provides a unique opportunity to create a 'signature development' which reflects Council's vision for Wine Country and which pronounces a sense of arrival to the vineyards district from the north in the Singleton Local Government Area (LGA). Council would appreciate that the gateway focus for Hunter Wine Country has previously centred around arrival to the district from the south, in the Cessnock LGA.

RECOMMENDED that:

1. Council support the attached Planning Proposal for Lot 5 DP 823737, 257 Hermitage Road, Pokolbin, (LA 8/2012, as amended, and forward the Planning Proposal to the NSW Department of Planning & Environment in accordance with the NSW State Government Local Environmental Plan (LEP) Gateway Process.
2. Subject to the support of NSW Department of Planning & Environment through the NSW State Government Local Environmental Plan (LEP) Gateway Process Council resolve to prepare a Draft Development Control Plan for the site which recognises the inherent opportunity to facilitate detailed site planning for the development and conservation of the land, consistent with achieving a 'gateway landmark' at the site to Council's satisfaction.

Background

The Site

The site is legally described as Lot 5 in DP 823737 and is owned by the Belford Land Corporation. The PP applies to all of Lot 5.

Attachment 2 illustrates the location and boundaries of the site.

The site is located at 257 Hermitage Road, Pokolbin within the Singleton LGA. The site is 306.34ha in area and has frontage to Hermitage Road to the north and Old North Road to the west. The site is elongated in shape, being approximately 4km in length and between 500m and 1km in width. The land is located approximately 14km from Singleton, 18km from Cessnock and 7.5km from Branxton/Huntlee. The location of the PP site is adjacent to the 'junction' of Hermitage Road and the Hunter Expressway.

Components of the land are visible from surrounding areas. The overall visibility of the central and southern parts of the site is obscured by a ridgeline that runs along the western (Old North Road) boundary. This ridge includes the high point of Thistle Hill (approximately 143m AHD). A prominent external view into the site is available from Hermitage Road along the northern boundary.

The northern part of the site drains to the north-west and the southern part of the site to the south. The central part of the site drains east.

The property has been intermittently utilised for cattle grazing. There are no dwellings located on the site however, there is an existing farm shed located in the north-west portion of the property with driveway access to Hermitage Road. The site has one vehicular access driveway at Hermitage Road and two vehicular access gates on Old North Road. An internal gravel access road exists throughout the length of the site.

The site is undulating and predominantly cleared. Pockets of native vegetation exist throughout the site, the majority of which consists of endangered ecological communities (EECs) (Schedule 1: *Threatened Species Conservation Act, 1995*) being Hunter Lowland Red Gum Forest (~0.29 ha) and Central Hunter Ironbark – Spotted Gum – Grey Box Forest (~66.17 ha). Other remnant vegetation includes Central Hunter Swamp Oak Forest (~14.77 ha) and Hunter Valley River Oak Forest (~4.62 ha), neither of which are EECs.

Reticulated water and sewer are unavailable at the site. The site is serviced with electricity and telecommunications infrastructure.

Planning Proposal

The objectives of the planning proposal are:

- To rezone the land from RU1 Primary Production to RU4 Primary Production Small Holdings;
- To facilitate the subsequent development of the site into small rural holdings not less than 10 hectares in size, each with dwelling entitlement (having permanent occupancy provisions), but only on the basis of satisfactory integration with tourism or viticulture or

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other land uses which support the strategic land use objectives of Hunter Wine Country, being permissible land uses in the RU4 Primary Production Small Holdings zone;

- To recognise the inherent significance of the site as a gateway location situated at the northern entry to the internationally renowned Hunter Wine Country and promote its development and conservation in an appropriate matter;
- Having regard to the locational significance of the site, to clearly emphasise and regulate preferred potential development and the conservation values of the land;
- To update the Singleton Local Environmental Plan 2013 to reflect any necessary changes identified by the investigations in relation to the subject site; and
- To highlight the relationship of the planning proposal with associated concurrent requirements for the preparation and adoption of a Development Control Plan for the site.

The detail of the PP is highlighted in **Attachment 1**.

Delivery Program/Operational Plan

Preparation of site specific amendments to Council's LEP is a routine business matter and is not an action identified in Council's Operational Plan 2014-2015. The preparation of a concurrent DCP similarly applies. The subject proposal does not conflict with the outcomes identified in Council's Delivery program or Operational Plan.

Legislation/Council Policy**(1) Environmental Planning and Assessment Act, 1979 (EP&A Act 1979)**

The PP report (**Attachment 1**) has been prepared pursuant to Part 3, Division 4 of the EP&A Act 1979, for the purposes of seeking an amendment to Council's LEP.

Subject to the support of Council and the Department of Planning & Environment, amendments to Singleton LEP 2013 would occur consistent with the requirements of the EP&A Act 1979 and associated EP&A Act Regulation 2000. Similarly, any resolution of Council to prepare and exhibit a draft DCP would be subject to the requirements of the said Act and Regulation.

(2) Upper Hunter Strategic Regional Land Use Plan (2012)

The Singleton LGA is subject to the provisions of the Upper Hunter Strategic Regional Land Use Plan (2012), which is a subregional land use strategy.

The subject land is identified as part of the "Strategic Agricultural Land – Viticulture Critical Industry Cluster".

Properties of 10ha are commonplace in Hunter Wine Country. Strategic land use analysis undertaken by Cessnock City Council (2000 onwards with regular review) has shown that bona fide, long term viticultural operations can readily occur on properties in the vicinity of 10ha, and that the aggregation of such viticultural 'value' can often be greater than that of 'singular properties of equivalent size'. In this sense, the viticultural 'value' of the land is likely to be improved by the PP.

The use of the land for viticultural purposes supports the objectives of the regional plan.

It is considered that the PP will positively support the relevant objectives and actions of the UHSRLUP.

(3) Singleton Land Use Strategy

The Singleton Land Use Strategy (2008) was adopted by Council on 21 April, 2008.

Of relevance to this PP is Section 2.8: Protection of Agricultural Land and Viability which states, in part:

Regarding Policies for the Protection of Agricultural Land and Viability

- Rural residential areas need to be clearly identified and separated from rural production areas to reduce potential land use conflicts; and
- Review zoning options to enable diversified tourism and accommodation, especially in the Hermitage Road and Broke-Fordwich areas.

The requirement for the PP and associated planning framework to clearly integrate permanent dwellings with other accepted Wine Country land uses is critical to ensuring that the land will not be developed as a 'rural residential estate'. The use of the land in Hunter Wine Country is typically that of viticulture and tourist related development. Given the nature of these land uses (spray drift, noise, odour etc.) and for reasons associated with potentially adverse visual impacts, 'rural residential estates' are inappropriately located in wine country.

The Singleton Land Use Strategy promotes the development of rural residential estates in other parts of the LGA.

(4) Hermitage Road Planning Study (2014)

As previously discussed, the Hermitage Road Planning Study was prepared by Peter Andrews & Associates in March 2014, on behalf of Council. The study was adopted by Council at its meeting on 1 September, 2014.

The purpose of the planning study was as follows:

- Examine the minimum lot size controls in the locality having regard to the current 40 ha minimum.
- Provide a strategic context in which to resolve three planning proposals for the following three sites:

- (1) Bentwood Valley - Lot 1 DP 270482, Broke Road Pokolbin. A 77 lot Community Title subdivision has been created. Approval has been granted to erect tourist accommodation on each lot. The planning proposal seeks permanent occupation on each lot.

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- (2) The Hunter Resort - Lot 31 DP 857280 Mistletoe Lane Pokolbin. The planning proposal seeks the subdivision of a 28 ha parcel into 1 x 7 ha lot and 2x 10.5 ha lots, to give separate title to two existing developments and create a third lot planned to be developed for tourist accommodation.
- (3) The Hermitage - Lot 5 DP 823737 Old North Road Pokolbin. The planning proposal, at the time of preparation of the study by Peter Andrews & Associates, sought the subdivision of a 305 ha site into rural residential lots of 4 ha to 9 ha and 4 "retail/community use tourism" lots, of 2 ha each. (See further note below related to the revision of the planning proposal)

The study recommends (in part) that none of the three Planning Proposals proceed as *"there is no strategic justification for the proposals"*. (Page 47).

The study also recommends (in part) retention of the 40 hectare minimum lot size for the locality and the rezoning of land in the northern part of the Hermitage Road Precinct from RU1 Primary Production to RU4 Primary Production Small Lots (the southern part is already zoned RU4). The current zoning of the land, RU1 Primary Production, has the capacity to introduce land uses which are contrary to the desired land use future of Hunter Wine Country (e.g. extractive industries, hazardous industries, heavy industrial storage establishments).

In relation to this PP, the study states:

"If Council chooses that the planning proposal should proceed further, then Council should request the applicant to prepare a Planning Proposal including the following information to inform Council's decision making:

- *Justification for inconsistencies with the Ministerial Directions, relevant SEPPs, the Singleton LEP, the SLUS, the Strategic Regional Land Use Plan for the Upper Hunter and the Lower Hunter Settlement Strategy.*
- *Discuss how the proposal would not set a precedent for existing or future development.*
- *That the proposal would not result in fragmentation or loss of agricultural production land.*
- *Assessment of the perceived shortfall of tourism accommodation.*
- *Methodology on how the land would be developed for tourism only and not rural residential development for the outlined scenario.*
- *Or alternatively, an assessment of the oversupply of rural residential land also taking into account the other Planning Proposals.*
- *Information on the proposed commercial / retail lots including its potential land uses and how this would not adversely impact other areas providing similar retail uses in close proximity.*
- *How the proposal would not impact on important viticultural lands or the Singleton Military Area.*
- *How the proposal would not impact on the critical industry cluster.*
- *A landscape character and visual impact assessment.*
- *How services could be provided for the proposal "*

In accordance with Council's resolution of 1 September, 2014, proponents of the three planning proposals were contacted "requesting that revised proposals be submitted to

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Council no later than 19 December 2014 or at another date authorised in writing by the Director Planning and Sustainable Environment".

The detail of the revised PP specifically relates to the revision and additional detail caused by Council's resolution above.

(5) Singleton Community Strategic Plan (2013)

The Singleton Community Strategic Plan (2013) is a long term strategy for the whole community; a blueprint to 2023. The document captures the vision for the Singleton LGA, by the Singleton community.

The development and conservation of the subject land in a manner which is sustainable and which reflects the community's vision for the future of Hunter Wine Country is consistent with this plan.

Financial Implications

The proposal is not expected to generate any significant adverse financial implications. The request to amend Council's LEP incurred processing fees in accordance with Council's Operational Plan 2011-2012: Fees and Charges.

The proponent will be financially accountable for the preparation of any draft DCP. The direction and content of the draft DCP would be expressly managed by Council.

Consultation/Social Implications

If the proposal is supported by Council and the Department of Planning and Environment's Gateway determination, it will need to be exhibited in accordance with the recommendations of the respective Gateway response and pursuant to the requirements of the NSW Department of Planning and Environment's "*A Guide to Preparing Local Environmental Plans*", and concurrently with the requirements of the EP&A Act 1979 and EP&A Act Regulation 2000.

The planning proposal is not expected to generate any significant adverse social implications.

Environmental Considerations

The proposal is not expected to generate any significant adverse environmental impacts. Opportunities exist to generate a positive environmental outcome at the site (e.g. in perpetuity conservation of EECs; biodiversity offsets and the like).

A Soil, Land and Agricultural Resource Assessment prepared by SLR Consulting Australia P/L (December, 2014) for the site concluded that soil types within the site are suitable for small scale intensive agricultural activities such as vine and olive production and that there are no physical or chemical constraints which would preclude these activities being undertaken. All site soil types are considered suitable for the purposes of on-site waste disposal. The detail of this assessment is included in the detail of the PP in **Attachment 1**.

Risk Implications

No significant adverse risk implications have been identified as likely to occur as a result of the subject planning proposal.

Options

The options available to Council are as follows:

1. Support the planning proposal and associated preparation of a draft DCP in accordance with the recommendations of this report; or
2. Not to support the planning proposal and draft DCP.

Option one is recommended.

Conclusion

The PP seeks to:

1. Rezone the land from RU1 Primary Production to RU4 Primary Production Small Holdings;
2. Facilitate the development of the land into rural small holdings with a 10ha minimum lot size; and
3. Facilitate the development of the land for the purposes of the establishment of one permanent dwelling per lot only on the basis of its acceptable integration with site based tourism, viticulture, other forms of agriculture and the like, consistent with the strategic land use planning objectives for Hunter Wine Country and the RU4 zone

The current RU1 Primary Production zoning of the land creates options for other land uses at the site which are inconsistent with Council's vision for Hunter Wine Country. On this basis alone, the land (as with all other RU1 land in the precinct) should be rezoned to RU4 Primary Production Small Holdings

Properties of 10ha are commonplace in Hunter Wine Country. Strategic land use analysis undertaken by Cessnock City Council (2000 onwards with regular review) has shown that bona fide, long term viticultural operations can readily occur on properties in the vicinity of 10ha, and that the aggregation of such viticultural 'value' can often be greater than that of 'singular properties of equivalent size'. In this sense, the viticultural 'value' of the land is likely to be improved by the PP. Viticultural operations of this nature are often integrated with cellar door developments, tourist accommodation uses, other forms of agriculture and the like providing diversity and interest and an important level of service to tourists.

Should the matter proceed beyond gateway determination Council's LEP will require further amendment (in addition to land rezoning) to facilitate the subdivision of the land and to ensure that land uses are integrated to Council's satisfaction. The proposed methodology to enable this to occur, should Council and the Department of Planning & Environment resolve to support the proposal, will be the subject of further discussions with

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both the Department and with Parliamentary Counsel. Should the proposal be supported, the preparation of a DCP for the site will be critical to facilitate the detail of proper site planning. This is of particular importance given the gateway location of the site and its associated ability to highlight the northern entry to Hunter Wine Country in a manner consistent with Council's objectives for the locality.

Should the PP proceed, it should only do so on the basis of a concurrent relationship with an associated DCP for the site.

The recent opening of the Hunter Expressway and the associated, improved exposure of the Vineyards District in this location as a result, provides Council with a significant opportunity to promote and market the northern locational components of Hunter Wine Country. Coupled with the improved exposure of Hunter Wine Country at its northern entry in the Singleton LGA is the current opportunity to create a landmark development, a gateway statement, to pronounce the Singleton entry to Wine Country.



Mark Ihlein

Director Planning & Sustainable Environment Group

Attachments

- AT-1** LA8/2012 - Formal Planning Proposal - 257 Hermitage Road
Pokolbin
- AT-2** LA8/2012 - Site Plan