

Rezone rural land to residential land at Aberglasslyn Rd, Aberglasslyn

Proposal Title : **Rezone rural land to residential land at Aberglasslyn Rd, Aberglasslyn**

Proposal Summary : **The proposal would rezone part of lot 1 DP 5777474, being 149 Aberglasslyn Road, Aberglasslyn, from RU2 Rural Landscape to R1 General Residential. The minimum lot size of the land to be rezoned would be changed from 40 ha to 450 sq.m.**

The proposal would also introduce a local clause that would allow for the subdivision of lots that are split zoned and do not satisfy the minimum lot size (4.1A of the Maitland LEP 2011), across the LGA.

PP Number : **PP_2013_MAITL_001_00**

Dop File No : **13/08104**

Proposal Details

Date Planning : **08-May-2013**

Proposal Received :

LGA covered :

Maitland

Region : **Hunter**

RPA :

Maitland City Council

State Electorate : **MAITLAND**

Section of the Act :

55 - Planning Proposal

LEP Type : **Spot Rezoning**

Location Details

Street : **149 Aberglasslyn Road**

Suburb : **Aberglasslyn**

City :

Postcode : **2320**

Land Parcel : **Lot 1 DP 5777474**

DoP Planning Officer Contact Details

Contact Name : **Ben Holmes**

Contact Number : **0249042709**

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RPA Contact Details

Contact Name : **Mark Roser**

Contact Number : **0249349848**

Contact Email : **markr@maitland.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	No
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.46	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	6	No. of Dwellings (where relevant) :	6
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 : **SITE DESCRIPTION**

The site is largely cleared with the exception of a dwelling house. It is generally surrounded by land either developed or rezoned for residential, but is also connected to rural land which extends to the north. The land to be rezoned fronts Aberglasslyn Road and is flood free. The adjoining rural land (zoned RU2) is flood affected.

More broadly, the site is approximately 2 km from the Rutherford Marketplace shopping centre. Aberglasslyn Road connects the site to the New England Highway (approximately 1.5 km south). The North Coast Rail line is located approximately 200 metres to the east, with the nearest passenger train station being Maitland (5 km distant).

LEP TYPE AND NO. OF DWELLINGS

This is a spot rezoning and policy-type LEP. The rezoning of the site would potentially provide for up to 6 dwellings however the local clause proposed by Council would facilitate additional dwellings across the LGA. Council has not quantified the potential dwelling yield associated with the local clause.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The "Objectives or Intended Outcomes" is consistent with the Department's "A guide to preparing planning proposals".**

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

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

Comment : The "Explanation of Provisions" is generally consistent with the Department's "A guide to preparing planning proposals".

The site is to be rezoned from RU2 Rural Landscape to R1 General Residential with a minimum lot size (MLS) of 450 sq.m, consistent with the R1 zoning and MLS applying to the adjoining residential land. The R1 zone is one of two residential zones applying in the LGA (the other is R5 Large Lot Residential) and applying R1 to this land is supported. No height or FSR standards are to apply, consistent with Council's approach to the R1 zone elsewhere.

Council has advised that the proposed local clause would be different to the clause "4.1B Minimum lot sizes for certain split zones" used in other SI LEPs such as the Port-Macquarie Hastings LEP 2011 or the Tamworth Regional LEP 2010. In those LEPs, clause 4.1B would allow land split zoned urban and a non-urban zone (eg R1 with RU4 or E3) to be subdivided below the MLS provided the resulting urban zoned lots comply with the MLS and one of those resulting urban zoned lots includes all of the non-urban zoned land.

Council's proposed clause 4.1B would allow the lot size of both the residential and non-urban zoned land to be reduced below the MLS. This approach would provide flexibility when subdividing land along the perimeter of constrained land (eg for this site, flooding). It would not eliminate the split-zoning, instead it would allow smaller split-zoned lots to be created. The end result being that the resulting lots would contain adequate urban zoned land for a building envelope while using the non-urban zoned component to provide an adequately sized lot for the end user. This alternative approach is considered worth investigating.

Council has indicated that without introducing the new clause, it would require redesigning of the subdivision. Council believes this would likely halve the yield for the site and leave the non-urban component under utilised. Further, Council notes that some of its Urban Release Areas and other urban extension sites would benefit from this clause also (although this is not quantified).

Alternative approaches to Council's proposed clause could include:

- a site by site assessment of subdivision layouts and MLSs, and amending the MLS map accordingly. However this approach would be complex and may require further PPs should the subdivision layout need to change at the DA stage (eg servicing requirement or following detailed site surveys). For these reasons this is not supported; or
- reduce or remove the MLS in these areas and rely on the relevant natural resource management clause/ DA merit assessment. However this approach may raise expectations that land unsuitable for development (eg potentially large parcels of constrained land on the urban fringe) can be developed in full because of its reduced MLS. For these reasons this is not supported either.

Given the above, Council's proposed local clause is supported. While Council has not prepared a draft of the clause (this would occur at the legal drafting stage), Council should expand on the intent of the clause in the "Explanation of Provisions" so the community can understand what is proposed. This should include nominating which zones would be affected by the clause and identifying that the purpose of the clause is to create urban/ non-urban split-zoned resulting lots below the MLS. The regional team could assist Council review a revised PP if desired.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

1.5 Rural Lands

* May need the Director General's agreement

3.1 Residential Zones

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3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

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 55—Remediation of Land

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

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

Further discussion on inconsistencies is provided in the "Consistency with Strategic Framework" section of this report.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

The maps provided are adequate for community consultation. The locality map (Appendix 1 of the PP) should however be updated so that it only identifies the land affected by this PP ie part of lot 1 DP 577474, not all of it. This will make it consistent with the zone and minimum lot size maps provided, and avoid confusion.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council considers the PP to be a low impact PP and proposes a 14 day consultation period. This is supported.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons :

PROJECT TIMELINE

Council's timeline nominates PP completion by the end of August 2013, approximately three months after the Gateway Determination. A six month completion timeframe is recommended so as to provide an adequate buffer should unexpected delays occur.

DELEGATION AUTHORISATION

Council has accepted plan-making delegation for PPs generally, however it has not been sought for this PP. The reason for this is not discussed by Council.

Planning Circular PS12-006 identifies that the Gateway has the option of delegating a PP to Council if the Gateway determines the matter to be of local significance. Delegation is recommended in this instance.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Maitland LEP 2011 was notified in December 2011.**

Assessment Criteria

Need for planning proposal :

While the PP has been initiated at the request of the landowner, the site is identified in Council's Maitland Urban Settlement Strategy (MUSS) as an urban expansion area that is suitable for residential development. Noting this, its proximity to existing residential, and that the site would deliver needed housing (albeit only six dwellings), the need for the rezoning component of the PP is justified.

The need for the local clause component is also justified. As discussed above, the clause would allow Council to better utilise land on the urban fringe for urban development.

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Consistency with strategic planning framework :

CONSISTENCY WITH THE LOWER HUNTER REGIONAL STRATEGY (LHRS)

The LHRS provides guidance for non-urban land to be rezoned residential - it supports such development where the site is less than 50 ha and it is identified in a DG endorsed local strategy. As this site is not in a DG endorsed strategy, assessment against the LHRS Sustainability Criteria is required.

While Council has not undertaken this assessment, the land to be rezoned is minor (0.5 ha, 6 dwellings) and so adverse impacts are unlikely. Notwithstanding this, the site generally satisfies the Sustainability Criteria:

Infrastructure, access, quality/ equity of services - unlikely to be an issue. The site adjoins existing residential and dwelling yield is minor.

Housing diversity - the additional housing may increase housing choice in that locality.

Environmental impacts - the site is cleared agricultural land and so adverse environmental impacts are unlikely.

Avoidance of risk - Council advises that adequate flood-free land can be provided for future building envelopes.

Employment lands - N/A.

Natural resources - the PP notes the site to be prime agricultural land, although Council states it is not practical for sustainable agriculture practices (presumably due to its size and/ or proximity to residential). Further, the MUSS has identified its value for residential.

CONSISTENCY WITH LOCAL STRATEGIES

Maitland Urban Settlement Strategy - Council states that the PP is consistent with the MUSS. The site is identified as an urban expansion area that is suitable for residential development.

CONSISTENCY WITH STATE ENVIRONMENTAL PLANNING POLICIES (SEPPS)

SEPP (Rural Lands) 2008 - while there is no specific action in the SEPP regarding PPs, consistency with its Rural Planning Principles (cl. 7) and Rural Subdivision Principles (cl. 8) is required by s117 direction 1.5 Rural Lands. The PP is inconsistent with the principles because it would rezone the land from rural (RU2) to low density residential (R1) and introduce a new clause that would allow subdivision below the MLS.

Given the characteristics of the site (size, proximity to residential) and Council's view that the land is not practical for sustainable agriculture practices, the significance of the inconsistency appears minor. Consultation with DP&I (Agriculture) should occur in order to confirm the agricultural value of the land and in turn whether the inconsistency is of minor significance. Consideration should also be given by DPI (Agriculture) to the implications of the proposed local clause.

SEPP 55 Remediation of Land - Council has not identified specific uses that occurred on the site previously, but states that as a result of past agricultural uses there is potential for contamination. However, due to studies undertaken in support of a previous DA for the eastern side of the same lot for residential, Council is satisfied that the land is suitable for urban purposes. Council advises that a more detailed assessment would be undertaken prior to construction. No further assessment is proposed as part of the PP process.

CONSISTENCY WITH S117 DIRECTIONS

The PP is consistent with the relevant s117 directions except the following which require further discussion:

1.2 Rural Zones - inconsistent as the PP would rezone RU2 land to R1 (cl.4a). Consultation with DPI (Agriculture) should occur in order to inform Council's consistency assessment.

1.5 Rural Lands - inconsistent as the PP is inconsistent with both the Rural Planning Principles and Rural Subdivision Principles (cl.4&5). DPI (Agriculture) should be consulted to inform Council's consistency assessment.

4.1 Acid Sulfate Soils (ASS) - inconsistent as Council does not intend to undertake an ASS study (cl.6). As the site is identified as Class 5 and subject to the ASS provisions in the LEP, ASS issues can be adequately addressed at the DA stage. The DG should agree that the PP's inconsistency with this direction is of minor significance.

5.1 Implementation of Regional Strategies - as discussed above regarding the LHRS, the PP is inconsistent (cl.4) but generally satisfies the LHRS's Sustainability Criteria. The DG should agree that the PP's inconsistency with this direction is of minor significance.

Environmental social
economic impacts :

Council is satisfied that environmental impacts associated with the proposal have been adequately dealt with for the PP stage. Other issues such as noise and vibration (due to the nearby railway line), ASS and contamination, Council intends to consider further at the DA stage. This is an adequate approach.

The social and economic benefits associated with the PP are anticipated to be positive. The rezoning would result in additional housing in a locality that is relatively well serviced in terms of transport, shops and facilities. The introduction of the local clause may also facilitate the more efficient use of land on the urban fringe.

This report has recommended Council consult with DPI (Agriculture). Other agencies may need to be consulted depending on which non-urban zones Council intends to include in its proposed local clause eg OEH if environmental zones. This may also trigger the need for Council to revise its s117 direction assessment eg 2.1 Environment Protection Zones.

Assessment Process

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

Timeframe to make LEP : **6 Month** Delegation : **RPA**

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 ? **Yes**

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

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? **No**

If Yes, reasons :

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Documents

Document File Name	DocumentType Name	Is Public
Cover_Letter.pdf	Proposal Covering Letter	Yes
Council_Report.pdf	Proposal Covering Letter	Yes
Planning_Proposal.pdf	Proposal	Yes
Project_Timeline.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
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements

Additional Information :

The following conditions are recommended so that the PP may proceed:

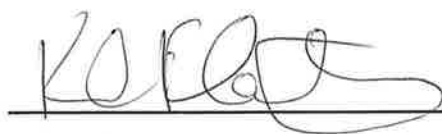
- Update the 'Explanation of Provisions' section of the PP by nominating the zones that are to be affected by the proposed local clause.
- Amend the locality map so that the 'site' marked on the map corresponds with the land to be rezoned.
- Consult with DPI (Agriculture) regarding Council's intention to rezone the land and the proposed local clause, and update Council's s117 direction assessment for directions 1.2 and 1.5 following receipt of its comments.
- Depending on the zones nominated by Council for inclusion in the proposed local clause, Council may need to consult with other agencies such as OEH for environmental zones. Council should update its s117 direction consistency assessment accordingly taking into account any comments made.
- 6 month completion timeframe.
- 14 day community consultation period.
- No public hearing.

It is recommended that the Gateway delegate plan-making functions to Council for this PP because the matter is of local significance.

It is recommended that the DG's delegate agree that the PP's inconsistency with s117 directions 4.1 Acid Sulfate Soils and 5.1 Implementation of Regional Strategies is of minor significance.

Supporting Reasons : The Gateway letter could suggest that the Regional Team could assist Council by reviewing the revised PP prior to exhibition if desired by Council.

Signature:



Printed Name:

KO'FLAHERTY

Date:

24-5-2013