

Amendment 42 to Singleton Local Environmental Plan 1996 Wattle Ponds North East

Candidate Area

Proposal Title :	Amendment 42 to Singleton Local Environmental Plan 1996 Wattle Ponds North East Candidate Area		
Proposal Summary :	The Planning Proposal aims to rezone 88ha of land from rural to an Environmental Living Zone. The rezoning will yield approximately 70 lots.		
PP Number :	PP_2012_SINGL_002_00	Dop File No :	10/21913

Proposal Details

Date Planning Proposal Received :	12-Dec-2011	LGA covered :	Singleton
Region :	Hunter	RPA :	Singleton Shire Council
State Electorate :	UPPER HUNTER	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	6,8,11,36 Long Gully Road		
Suburb :	Wattle Ponds	City :	Singleton
		Postcode :	2330
Land Parcel :	Lot 138, 140, 120, 142 in DP 752455 zoned 1(a) (Rural Zone)		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A

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MDP Number :		Date of Release :	
Area of Release (Ha) :	88.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	70	No. of Dwellings (where relevant) :	70
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 :

Council resolved to support this Planning Proposal on 5 December 2011.

Another planning proposal in the tracking system also applies to this site - PP_2010_SINGLE_008_00. Under the previous plan making provisions of the Environmental Planning and Assessment Act 1979, this site along with land from four other candidate areas were notified under section 54 on 26 October 2007. Public agency consultation was undertaken, with numerous issues raised by the Office of Environment and Heritage (OEH).

In 2010 the Central Hunter Ironbark- Spotted Gum Grey Box Forest which is contained on the site, was listed as an Endangered Ecological Community (subsequent to endorsement of Council's strategy in 2008). The listing required additional studies, and further consultation with OEH.

Council requested that the draft LEP be transitioned into a Planning Proposal in November 2010, nominating a proposed 1(d) Rural Residential zone (R5 equivalent). The subject land changed ownership a number of times which delayed the progress of the planning proposal. An extension of timeframe was granted August 2011.

In the interim Council has progressed its principal LEP. The latest version, recently submitted to the Department under section 64, nominates the existing surrounding rural residential development to be zoned E4. Council has determined that due to the environmental constraints, E4 is also the appropriate zone for the subject site. A fresh planning proposal has been submitted to reflect this proposed zone change.

A number of studies have already been prepared for the site, including flora and fauna and Aboriginal Heritage. However Council has identified a number of information gaps which require further investigations prior to exhibition.

Council intent to discontinue PP_2010_SINGL_008_00, under Section 58(4) of the EP&A Act 1979.

As discussed in the Singleton Rusty Lane planning proposal (PP_2011_SINGL_005_00), the Regional Team is aware of the length of time Singleton Council is taking to finalise planning proposals. It is the Regional Team's view that a more efficient and consistent approach will assist in correcting this trend.

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To that end, it is proposed to adopt with the Bridgman Road planning proposal, the Panel's Rusty Lane approach. It is therefore recommended that Council be required to prepare a project timetable to submit to the Regional Team for endorsement. The project timetable is to identify key tasks including any pre-exhibition consultation with key agencies, background studies and mapping.

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : **The objectives adequately explain the intent of the planning proposal that is to rezone the site to 7(b) Environmental Living Zone under LEP 1996 or E4 Environmental Living Zone under Singleton SI LEP, prepare a DCP and an appropriate minimum lot size map.**

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

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

Comment : **The explanation of provisions is considered adequate.**

The planning proposal will amend either Singleton LEP 1996 or the Singleton SI LEP. The LEP map intends to zone the land either 7(b) Environmental Living Zone under LEP 1996 or E4 Environmental Living Zone under the Singleton SI LEP. The planning proposal requires a zoning map and a minimum lot size map.

A lot size map is required to identify the minimum lot size for this site, and is required for either the amendment to the Singleton LEP 1996 or the Singleton SI LEP. In either case, the minimum lot size map will be based on a draft Development Control Plan taking into account the site's environmental constraints and consultation with OEH. It is proposed that the minimum lot size map and DCP be submitted to the Regional Office prior to exhibition. The minimum lot sizes that are proposed will be between 8,000m2 and 1 hectare.

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

**1.5 Rural Lands
2.1 Environment Protection Zones
2.3 Heritage Conservation
3.3 Home Occupations
4.4 Planning for Bushfire Protection
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
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?

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

Although Council is of the opinion that the s117 Direction 1.2 Rural Zones is not relevant to the planning proposal, it applies to planning proposals that affect land within a rural zone. The planning proposal is inconsistent with Direction 1.2 as it is contrary to clause 4(b) by containing provisions that will increase the density on rural land. However, the inconsistency is justified by a strategy approved by the Director General. An excerpt of the Strategy has been uploaded onto the tracking system.

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

If No, explain :

2.1 Environment Protection Zones – it is yet to be concluded if the planning proposal is inconsistent with clause (4) as the provisions to protect and conserve environmentally sensitive areas (EEC) have not been determined. Consultation with OEH will determine if the proposed provisions will be adequate.

4.4 Planning for Bushfire Protection - consultation is required with Rural Fire Service before the proposal can be considered consistent with this Direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Maps have been provided which identify the subject land.

The current planning proposal does not contain a zoning map. A map indicating the proposed and surrounding zoning has been revised from the previous planning proposal (attached).

A location map is also attached.

The minimum lot size map and land zoning map are required to be provided to the Regional Office prior to exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The proposal does not fit the definition of 'low impact planning proposal' and therefore a 28 day exhibition period is considered appropriate.

Council intend to exhibit the planning proposal and draft DCP concurrently to enable the public to understand how the site is likely to be developed if rezoned.

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 is considered adequate however the 7(b) Environmental Living or E4 Environmental Living zone, with the associated 1ha average minimum lot size, may not provide appropriate protection of the EEC. This will be determined through consultation with OEH. A variation of lot sizes could be applied across the site to ensure the existing vegetation is protected.

Proposal Assessment

Principal LEP:

Due Date : **September 2012**

Comments in relation
to Principal LEP :

Singleton LEP was submitted under previous section 64 of the EP&A Act 1979 in November 2011 and completion is estimated by mid 2012. It is intended that the planning proposal be exhibited to amend both the SI LEP and LEP 1996 so that the proposal remains valid regardless of the course it takes.

Assessment Criteria

Need for planning
proposal :

The planning proposal will provide land for the supply of environmental living in the short term. Four candidate areas, including this one, were identified as required for short term land supply in 2006. There have been delays in the progression of all rural residential candidate areas due to Council resources, agencies objections and changes in proponents.

Candidate Area

Consistency with
strategic planning
framework :

Singleton is not included in the Lower Hunter Regional Strategy.

SINGLETON LAND USE STRATEGY 2008

The land constitutes a candidate area known as Wattle Ponds North East within the Singleton Land Use Strategy (2008), endorsed by the Director General on 8 June 2008. The planning proposal is consistent with the Strategy in that it proposes to service the site with reticulated water but not reticulated sewer. The development is also consistent in that it proposes a minimum average lot size of 1 hectare with a minimum lot size of 8,000 m² where no sewer is provided.

The subject site is partly inconsistent with the Strategy's criteria used to identify potential rural residential sites. For example the Strategy states that environmentally sensitive land, bushfire prone land, areas of threatened species and areas containing aboriginal heritage should be excluded from rural residential development. The planning proposal does not avoid these matters. However, the EEC was identified after the Strategy was prepared. The bushfire risks can be addressed through consultation with RFS, and destruction of the aboriginal artefacts may be able to be avoided.

Apart from the above, the subject site is consistent with the majority of the criteria listed in the Strategy. The site adjoins an existing rural residential neighbourhood, it has adequate road access, is a satisfactory distance from services and is identified in an endorsed Strategy.

SECTION 117 DIRECTIONS

The proposal is, or maybe, inconsistent with the following s117 Directions:

1.2 Rural Zones**2.1 Environmental Protection****2.3 Heritage Conservation****4.4 Planning for Bushfire Protection**

The planning proposal is inconsistent with Direction 1.2 as it is contrary to clause 4(b) by containing provisions that will increase the density on rural land. However, the inconsistency is justified by a strategy approved by the Director General.

It cannot be determined at this time if the planning proposal is inconsistent Direction 2.1 under clause (4) as the provisions to protect and conserve environmentally sensitive areas (EEC) have not been determined. Consultation with OEH will determine if the proposed provisions will be adequate.

The planning proposal is considered justifiably inconsistent with Direction 2.3 Heritage Zones. While the planning proposal does not contain specific provisions to protect the Aboriginal objects which have been identified on the site, the existing Singleton LEP 1996 and the draft SI LEP 2012 contain provisions to protect heritage items. The inconsistency with this direction is therefore considered justified.

Consultation is required with NSW Rural Fire Service before the proposal can be considered consistent with Direction 4.4.

Council has requested clarification on the consistency with Direction 3.3 Home Occupations. The planning proposal is not considered to be inconsistent, as home occupations or the equivalent definition within the Singleton LEP 1996, home activity, is permissible without consent within the E4 or 7(b) zone.

The Planning Proposal is consistent with all other Section 117 Directions.

STATE ENVIRONMENTAL PLANNING POLICIES

The Planning Proposal is consistent with all relevant SEPPs.

Candidate Area

Environmental social
economic impacts :

The current proposal will result in up to 134 dwellings, providing additional housing stock in the locality adjacent to an existing rural residential neighbourhood and within a 10 minute drive to Singleton town centre.

The site contains an Endangered Ecological Community (EEC). It is yet to be determined if OEH will support the EEC being protected under an E4/ 7(b) zone.

It is considered that the proposed Development Control Plan (DCP) and subsequent minimum lot size map will provide some additional protection, however OEH may still request a stronger environmental zone over the EEC. It is likely that some EEC trees and hollow bearing trees will be lost as result of assigning building envelopes and APZs. Council has outlined that the DCP will contain provisions which are intended to encourage conservation, enhancement and regeneration of the EEC. This is a variation from the maintain or improve principals enforced by OEH.

The threatened fauna species Pomatostomus temporalis temporalis (Grey-crowned babbler) has been identified on site. Council intend to use the DCP provisions to ensure there is no significant adverse impact on this species.

It is satisfactory for traffic impacts to be assessed at the DA stage. The planning proposal recommends that a Traffic Impact Assessment Report be prepared prior to undertaking consultation.

Without a final lot layout it is yet to be determined if harm to the identified objects will occur. The Report recommends that if it is determined through a masterplan process, that harm is to occur to the items then an Aboriginal Heritage Impact Permit (AHIP) will be required to be obtained. This approach is considered satisfactory in addition to consultation with OEH on this matter.

Assessment Process

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

Timeframe to make LEP : **24 Month** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **NSW Aboriginal Land Council
Office of Environment and Heritage
NSW Rural Fire Service
Telstra
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. :

Bushfire

Other - provide details below

If Other, provide reasons :

Biodiversity assessment as required by OEH

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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 : **It is considered that as the site will have a low rural residential density and proposes to use on-site effluent disposal it is unlikely that additional demands will be placed on state infrastructure.**

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal.pdf	Proposal	Yes
Report Council Meeting 5 Dec 2011.pdf	Determination Document	Yes
wattle ponds NE Aerial Photo.doc	Photograph	Yes
Strategy map.pdf	Study	Yes
Proposed and existing surrounding zones.pdf	Map	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.3 Home Occupations
- 4.4 Planning for Bushfire Protection
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

1. Council will need to undertake additional studies to further demonstrate that the form and content of the planning proposal can be achieved. This additional information should form part of the exhibition material. The following matters need to be addressed;
 - Undertake studies to support the rezoning, including;
 - i. Bushfire Report
 - ii Biodiversity assessment as required by OEH
 - Utilising the studies undertaken for the rezoning, prepare a Development Control Plan, minimum lot size map and draft land zoning map in consultation with OEH and the Regional Office prior to exhibition.

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 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).

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Local Aboriginal Land Council and any other indigenous group affected
 - Office of Environment and Heritage for biodiversity and cultural heritage matters
 - NSW Rural Fire Service
 - Telstra
 - Ausgrid

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

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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.

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 18 months from the week following the date of the Gateway determination.

6. Agree to inconsistencies with Directions 1.2 Rural Zones and 2.3 Heritage Conservation. Advise Council that the planning proposal is considered consistent with Direction 3.3 Home Occupations, and no further consultation is required. NOTE: The additional 117 Directions identified by Council are considered consistent (not requiring agreement) or not relevant as discussed previously (Consistency with strategic planning framework).

7. Following completion of the required additional studies (and required pre-exhibition consultation with nominated agencies in accordance the relevant S117 Directions, Council is to undertake assessment of the revised form of the planning against relevant S117 Directions (2.1 Environment Protection Zones and 4.4 Planning for Bushfire Protection) and provide this revised assessment to the Regional Office for review and include as part of the planning proposal for exhibition purposes.

8. To ensure that the timeframe for the completion of the draft LEP is achieved, Council is to prepare and submit a project timetable to the Department's Regional Planning Team for endorsement within 1 month of receipt of this Gateway Determination. The timetable is to clearly identify the key tasks that are to be undertaken to progress the preparation of the LEP including any required pre-exhibition consultation with key agencies, background studies and mapping.

Supporting Reasons :

1. The proposal is consistent with the endorsed Singleton Land Use Strategy 2008 and will provide additional housing stock adjacent to existing development.

2. A number of studies have been completed such as Flora and Fauna Assessment and Aboriginal Cultural and Archaeological Assessment.

3. An 18 months timeframes is required to undertake additional studies, consult with agencies, prepare DCP, exhibit planning proposal and finalise the LEP. 18 month time period should enable the planning proposal to be completed. The project management requirement will ensure this timeframe is achievable.

NOTE: The tracking system does not allow for the selection of 18 months.

Signature:



Printed Name:

Monica Gibson

Date:

19 Jan 2012