

Upper Hunter LEP 2013 - Lot 52 Middlebrook Road, Scone - Identified in endorsed Strategy

Proposal Title : Upper Hunter LEP 2013 - Lot 52 Middlebrook Road, Scone - Identified in endorsed Strategy

Proposal Summary : The Planning Proposal will determine whether part of the subject land (14ha) should be rezoned from RU4 Primary Production Small Lots to R5 Large Lot Residential under the Upper Hunter Local Environmental Plan 2013. It will also amend the minimum lot size map to allow the creation of 1ha allotments.

This will leave a rural residue of 9ha, which is subject to flooding, bushfire and other constraints. The Upper Hunter LEP 2013 adopts the model split zone clause which enables the subdivision of the undersized rural allotment provided it is connected with one of the rural residential allotments.

PP Number : PP_2014_UPHUN_001_00

Dop File No :

14/06844

Proposal Details

Date Planning
Proposal Received : 15-May-2014

LGA covered :

Upper Hunter

Region : Hunter

RPA :

Upper Hunter Shire Council

State Electorate : UPPER HUNTER

Section of the Act :

55 - Planning Proposal

LEP Type : Spot Rezoning

Location Details

Street : Lot 52 DP 750941

Suburb : Middlebrook Road

City : Scone

Postcode : 2337

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : Trent Wink

Contact Number : 0249042716

Contact Email : trent.wink@planning.nsw.gov.au

RPA Contact Details

Contact Name : Mathew Pringle

Contact Number : 0265401139

Contact Email : mpringle@upperhunter.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	N/A	Consistent with Strategy :	N/A
MDP Number :		Date of Release :	
Area of Release (Ha) :	14.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	14
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 : **Consultation with DPI is required to determine whether the planning proposal is consistent with the Rural Subdivision Principles under State Environmental Planning Policy (Rural Lands) 2008.**

Council originally submitted the Planning Proposal on 8 April 2014. The Department requested additional information to justify the proposed 1ha rural residential allotments and to provide an assessment of the locational criteria contained in the Upper Hunter Land Use Strategy. The revised Planning Proposal was received on the 15 May 2014.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives explains that the purpose of the Planning Proposal is to investigate the potential for rural residential development.**

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

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

Comment : **The Planning Proposal aims to rezone part of the subject land (14ha) from RU4 Primary Production Small Lots to R5 Large Lot Residential under the Upper Hunter Local Environmental Plan 2013. It will also amend the minimum lot size map from 40ha to 1ha.**

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

2.1 Environment Protection Zones

3.4 Integrating Land Use and Transport

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

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 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

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

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

If No, explain :

SEPP 55 A preliminary site contamination assessment has been undertaken and Council is satisfied that the subject land is unlikely to be contaminated.

SEPP (Rural Lands) 2008

A land use conflict risk assessment has been prepared in accordance with the NSW Department of Industry Guidelines 'Living and Working in Rural Areas'. This assessment considers the risk of land use conflict with surrounding rural land to be low given the lack of intensive agricultural activities in the area, the relatively small size of the surrounding rural allotments and the established character of the area as being rural residential. Consultation with DPI is required to determine the adequacy of the risk assessment and whether the proposal is consistent with Rural Subdivision Principles.

S117 Direction 1.2 Rural Zones and Direction 3.4 Integrated Land Use and Transport
The PP's inconsistencies with these Directions are justified by the endorsed Strategy which identifies the subject land as a potential rural residential investigation area.

S117 Direction 1.5 Rural Lands

Council needs to address consistency with this S117 Direction. Consultation with DPI will determine whether the planning proposal is consistent with the Rural Subdivision Principles.

S117 Direction 2.1 Environment Protection Zones

A flora and fauna assessment needs to be prepared. Council advises that part of the site may contain White Box Yellow Box Blakely's Red Gum Woodland , which is listed as an endangered ecological community and the rural residue consists of the Hunter Floodplain Red Gum Woodland ecological community. Consultation with OEH is also required to determine consistency with this Direction.

S117 Direction 4.3 Flood Prone Land

The planning proposal is consistent with this Direction because it does not rezone flood prone land. The portion of land affected by flooding will remain zoned RU4 Primary Production Small Lots.

S117 Direction 4.4 Planning for Bushfire Protection

Council needs to consult with the NSW Rural Fire Service before undertaking community consultation to satisfy the requirements of Direction 4.4 Planning for Bushfire Protection.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The PP explains the proposed amendment. Council will be required to exhibit the amending LEP maps with the exhibition material.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council advises that the Gateway determination will determine the exhibition period.**

It is recommended that the planning proposal be exhibited for a minimum of 28 days to give the community sufficient time to review the planning proposal.

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **SI LEP published on 23 December 2013**

Assessment Criteria

Need for planning proposal : **A Planning Proposal is required to investigate whether the subject land is suitable for rural residential development.**

Consistency with strategic planning framework :

Upper Hunter Strategic Regional Land Use Plan

The PP provides an assessment against the Settlement Principles in the Upper Hunter Strategic Regional Land Use Plan. The PP is considered generally consistent with the settlement principles. Consultation with DPI is required to obtain advice about any potential conflict in land uses.

Upper Hunter Land Use Strategy

The subject land is located within the "Scone North West Rural Residential Investigation Area in the endorsed Upper Hunter Land Use Strategy. The Strategy identifies this locality for large rural residential with a minimum allotment of 2ha and an average of 4ha.

Council supports the proposed 1ha allotments and the minor inconsistency with the strategy for the following reasons:

- a) The proposed 1 ha lot size is consistent with the minimum lot size of the adjoining Tullong Road rural residential area immediately to the east of the site.
- b) The western portion of the site has been set aside to allow for the protection of environmentally sensitive land (ie potential habitat of the Hunter Floodplain Red Gum Woodland) and to address flooding issues. This land is not to be included in the rezoning and will remain zoned RU4 Primary Production Small Lots with a minimum lot size of 40 hectares. As a result, it is necessary to reduce the proposed minimum lot size to 1 ha on the developable portion of the site to achieve a reasonable lot yield.
- c) A smaller lot size is desirable to achieve a more efficient use of land and economical provision of infrastructure.

Council has also undertaken an assessment of the locational criteria under Table 11 of the endorsed Strategy to demonstrate that the subject land is potentially suitable for rural residential development.

When the Director General endorsed the Strategy on 21 January 2010, Council was advised to establish a land monitor to review residential supply and demand, dwelling and subdivision approvals. Council has now completed the land supply monitor and forwarded it to the Department to review on 12 May 2014. The land supply monitor will assist Council in managing its supply of residential and rural residential lands.

Environmental social economic impacts :

Council advises that part of the site may contain White Box Yellow Box Blakely's Red Gum Woodland , which is listed as an endangered ecological community and the rural residue consists of the Hunter Floodplain Red Gum Woodland ecological community. A flora and fauna assessment needs to be undertaken to determine potential environmental impacts from the proposed rural residential development.

The land use conflict risk assessment (LUCRA) found that the surrounding lands are used predominantly for grazing and the proposed rural residential development has a low potential to conflict with surrounding agricultural land uses. The assessment advises that it will be possible to construct a dwelling on the 1ha allotment and provide adequate buffers to minimise potential conflicts. The rear portion of the land will remain zoned rural and will provide an adequate buffer to the large rural property to the West. Also the adjoining lands have been identified within the Scone North West rural residential investigation area. The LUCRA will be forwarded to DPI for further comments.

If the subject land is determined to be suitable for rural residential development, it is likely to have positive social and economic impacts by providing additional housing opportunities which will strengthen the local community.

Assessment Process

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

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

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Department of Primary Industries - Minerals and Petroleum
NSW Rural Fire Service**

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. :

Flora

Fauna

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 :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal - Lot 52DP 750941 Middlebrook Road, Scone.pdf	Proposal	Yes
Preliminary Contamination Report.pdf	Proposal	Yes
Land Use Conflict Risk Assessment.pdf	Proposal	Yes
Bushfire Assessment Middlebrook Road Scone.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
2.1 Environment Protection Zones
3.4 Integrating Land Use and Transport
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection**

Additional Information : **It is recommended that:**

1. The Planning Proposal be supported and Council be given the Minister's plan making

delegations.

2. A flora and fauna assessment is to be prepared to determine potential impacts on threatened flora and fauna. A copy of the flora and fauna assessment should also be forwarded to Office of Environment and Heritage when they are consulted.

3. Council be required to prepare the amending LEP maps in accordance with the standard instrument technical requirements. The amending LEP maps needs to be exhibited with the planning proposal.

4. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 ('EP&A' Act) as follows:

(a) the Planning Proposal be made publicly available for 28 days;

(b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 4.5 of A guide to preparing LEPs (Department for Planning 2009)

5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- NSW Department of Primary Industries - Minerals and Petroleum (S117 Direction 1.3 Mining, Petroleum Production and Extractive Industries)
- NSW Department of Primary Industries - Agriculture (S117 Direction 1.5 Rural Lands)
- Office of Environment and Heritage
- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

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 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.

6. Approve the inconsistencies with the Minister's S117 Direction 1.2 Rural Zones and Direction 3.4 Integrated Land Use and Transport because the proposed rezoning is justified by the endorsed Upper Hunter Land Use Strategy. Council needs to address Direction 1.5 Rural Lands after receiving DPI's advice.

7. 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.

8. The timeframe for completing the LEP is 12 months from the date of the Gateway Determination.

Supporting Reasons :

Signature:



Printed Name:

K. O'FLAHERTY

Date:

22/5/14