

Upper Hunter LEP 2013 - Reclassification of Council owned land from Community to Operational Land

Proposal Title :	Upper Hunter LEP 2013 - Reclassification of Council owned land from Community to Operational Land		
Proposal Summary :	The Planning Proposal (the proposal) relates to one Council owned parcel of land, and seeks to reclassify Lot 12, DP 239406 at the corner of Short Street and Stafford Street, Scone, from community land to operational land.		
PP Number :	PP_2015_UPHUN_002_00	Dop File No :	15/04196

Proposal Details

Date Planning Proposal Received :	23-Mar-2015	LGA covered :	Upper Hunter
Region :	Hunter	RPA :	Upper Hunter Shire Council
State Electorate :	UPPER HUNTER	Section of the Act :	55 - Planning Proposal
LEP Type :	Reclassification		

Location Details

Street :	Cnr Short Street & Stafford Street		
Suburb :	Scone	City :	Scone
		Postcode :	2337
Land Parcel :	Lot 12, DP 239406 Zone R1 Residential		

DoP Planning Officer Contact Details

Contact Name :	Susan Blake
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RPA Contact Details

Contact Name :	Mathew Pringle
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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

Land Release Data

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

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.07	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	1
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 at its meeting on 16 December 2013 to support the preparation and lodgement of the proposal with the Department.

Council submitted the proposal to the Department on 25 February 2015, requesting a Gateway Determination to enable amendments to the Upper Hunter LEP 2013.

Additional information was requested by the Department regarding the title deeds and any registered instruments against the land. Advice was also requested pertaining to the extinguishment of any interests in the land. Council provided this advice to the Department on 23 March 2015.

Council should not exercise their delegations under section 59(1) of the EP&A Act, as the planning proposal includes reclassification of public land that will require the Governor to discharge 'public reserve' status, trusts, interests etc from the land.

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 adequately outlines the intended outcome of the proposal to reclassify land from community to operational land.

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

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

Comment : The proposal seeks to amend Upper Hunter LEP 2013 through changes to Schedule 4.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

3.1 Residential Zones

3.3 Home Occupations

* May need the Director General's agreement

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

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 (Building Sustainability Index: BASIX) 2004

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Affordable Rental Housing) 2009

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

Ministerial Section 117 Directions

The following s.117 Directions are applicable, and the planning proposal is considered as being consistent -

3.1 Residential Zones,

3.2 Caravan Parks and Manufactured Home Estates,

3.3 Home Occupations,

3.4 Integrating Land Use and Transport, and

6.1 Approval and Referral Requirements.

*** 6.2 Reserving Land for Public Purposes**

The proposal is to reclassify Council owned land currently identified as a public reserve. In accordance with cl.4 of the s.117 Direction, a proposal must not create, alter or reduce existing zonings or reservation of land for public purposes without the approval of the relevant public authority and the Secretary of Planning and Environment.

Council has identified that the land is surplus to Council land requirements, and should be sold for potential residential use as per its existing residential zoning. The lot is 682.9 sqm in size. Council has identified, and provided a map showing that alternate land is dedicated for the public reserve within close proximity. The proposal will require review by the Governor who will need to discharge from the land parcel the 'public reserve' status, trusts, interests etc.

It is recommended that the Secretary of Planning and Environment agree to the reduction of land for public purposes based on: the small size of the land; Council identifying that the land has not been used as a public reserve since its dedication in 1970, and that there is an alternate public reserve in close proximity; and its current residential zoning being consistent with the surrounding residential land uses.

SEPP 55 - Contaminated Land

In accordance with cl.6 when preparing a draft LEP Council must consider whether the land is contaminated and be satisfied the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes on which the land in the zone concerned is permitted to be used. If remediation is required, Council needs to be satisfied that the land will be remediated before the land is used for that purpose.

Reclassification of land to operational status enables Council to potentially sell the land. However reclassification does not impact on the existing land use, being Zone R1 Residential. Council indicates in their submission that the subject land is vacant and the site is not included on Council's list of contaminated sites. Council states that there is no indication from past use that the land would be contaminated. The zoning and development controls remain unchanged, and therefore the proposal is consistent with

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this SEPP.

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 :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a minimum 28 days for public consultation period. This is satisfactory and in accordance with section 5.5.2 of the Department's LEP guidelines. A public hearing is also to be held in accordance with section 29 of the Local Government Act 1993. The public hearing will be undertaken in accordance with the Department's LEP guideline.**

This community consultation is supported.

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 :

The Upper Hunter Standard Instrument LEP was published on 23 December 2013.

Assessment Criteria

Need for planning
proposal :

1. Is the planning proposal a result of any strategic study or report?

Council advises that the proposal has not been prepared following any outcomes of a study or report into the subject property. Rather the land has been identified through an internal review of the use of the subject land.

Council received Lot 12, DP 239406 as a public reserve as part of a residential subdivision in 1970. Being a public reserve the land was classified as community land upon commencement of the Local Government Act 1993. Council has determined that land is surplus to requirements, and the land should be sold for potential residential use. The subject land is vacant and has never been developed for recreational purposes as envisaged by its original dedication.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

It is considered that a planning proposal is the best means of facilitating reclassification of

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Lot 12, DP 239406 from community to operational land.

3. Is there a community benefit?

It is considered that the proposal will result in a net community benefit. As Council notes the land is vacant, and since 1970 has not been utilised for its intended purposes as a recreational public reserve. The planning proposal to reclassify Lot 12, DP 239406 as operational land is necessary to enable the land to be sold and potentially developed for an appropriate residential use.

Consistency with strategic planning framework :

Upper Hunter Strategic Regional Land Use Plan (UHSRLUP)

There are no specific outcomes relating to the reclassification of Council land in the UHSRLUP. The planning proposal seeks to reclassify one allotment, within an existing residential area to enable its potential development for residential purposes. The proposal is not contrary to the provisions of the UHSRLUP.

Upper Hunter Land Use Strategy

There is no specific discussion relating to reclassification of land in the Upper Hunter Land Use Strategy. Council notes the proposed reclassification will provide one additional lot to the residential stock of Scone township. Future development of the site will be consistent with the surrounding residential land use.

Upper Hunter Shire Council Community Strategic Plan

There is no specific discussion relating to reclassification of land in the Upper Hunter Council Community Strategic Plan. Council notes that the reclassification is consistent with the economic and civic leadership scope of the plan, and effectively manages the business and assets of Council. The subject land was dedicated as a public reserve in 1970. Land was also previously dedicated for a public reserve within close proximity to the site. Council indicates this reclassification and subsequent sale as providing the best community benefit.

Environmental social economic impacts :

The land has not been identified as containing critical habitat or threatened species, populations or ecological communities or their habitats. The land is vacant, and is not identified as flood affected. Council notes the land has not been used for any purpose which would suggest the possibility or likelihood of any contamination. The proposed reclassification will provide one additional lot to the residential stock of the Scone township, and any future development would be subject to the development assessment process.

Assessment Process

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

Timeframe to make LEP : **9 months** Delegation :

Public Authority Consultation - s56(2)(d) :

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 :

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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 :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal Reclassification of Land Lot 12 DP 239406 Cnr Short and Stafford St Scone (FEB 2015).pdf	Proposal	Yes
Upper_Hunter_DP0239406.pdf	Map	Yes
Upper_Hunter_88B_Instrument.pdf	Map	Yes
Upper_Hunter_Sewer_&_Stormwater_Plan.pdf	Map	Yes
Upper_Hunter_Title_Search.pdf	Map	Yes

Planning Team Recommendation

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

S.117 directions: **3.1 Residential Zones**
 3.3 Home Occupations
 6.1 Approval and Referral Requirements
 6.2 Reserving Land for Public Purposes

Additional Information : **This planning proposal should proceed subject to the following conditions:**

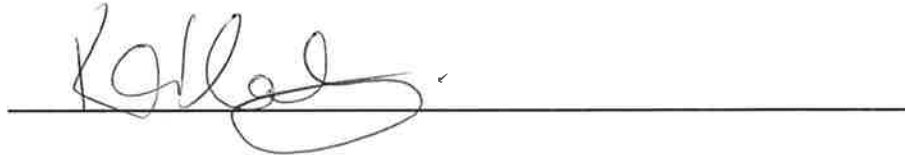
1. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 (b) the relevant planning authority must comply with the notice 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Environment 2013).
2. 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).
3. Council should not exercise their delegations under section 59(1) of the EP&A Act, as the planning proposal includes reclassification of public land that may require the Governor to discharge 'public reserve' status, trusts, interests etc from the land.
4. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons : **Upper Hunter Shire Council has identified the need for this administrative amendment to meet the operational needs of Council. The planning proposal will facilitate the sale of surplus land not required by Council. Council has undertaken the necessary review to determine proceeding with this planning proposal; and the reclassification process will provide the community with the opportunity to make submissions during the 28 day exhibition period and subsequent public hearing.**

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As the planning proposal includes reclassification of public land that will require the Governor to discharge the 'public reserve' status, trusts, interests etc from the land, Council should not exercise their delegations under section 59(1) of the EP&A Act.

Signature:



Printed Name:

K-OFLAHERTY. Date: 24-3-15.

