

Briton Court Road Stroud - Large Lot Residential

Proposal Title : **Briton Court Road Stroud - Large Lot Residential**

Proposal Summary : **To rezone approximately 17 hectares of land currently zoned 1(a) Rural under Great Lakes LEP 1996 and proposed RU2 Rural Landscape under draft Great Lakes LEP 2013 to R5 Large Lot Residential, following the making of Great Lakes LEP 2013**

PP Number : **PP_2013_GLAKE_001_00**

Dop File No : **13/18825**

Proposal Details

Date Planning
Proposal Received : **13-Nov-2013**

LGA covered : **Great Lakes**

Region : **Hunter**

RPA : **Great Lakes Council**

State Electorate : **UPPER HUNTER**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Briton Court Road**

Suburb : **Stroud**

City : **Great Lakes**

Postcode : **2425**

Land Parcel : **Lot 1 DP 1045567**

DoP Planning Officer Contact Details

Contact Name : **Brian Murphy**

Contact Number : **0249294453**

Contact Email : **brian.murphy@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Roger Busby**

Contact Number : **0265917254**

Contact Email : **roger.busby@greatlakes.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub
Regional Strategy : **Mid North Coast Regional
Strategy**

Consistent with Strategy : **No**

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MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

Residential

No. of Lots : 17

No. of Dwellings
(where relevant) : 17

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 :

Draft Great Lakes LEP 2013 is close to being finalised. Council therefore proposes that the planning proposal progress as an amendment to Great Lakes LEP 2013.

Council has not requested use of plan-making delegations. The planning proposal is considered to have minor impacts. It is therefore recommended Council be given plan-making delegations.

The Regional Director has elected not to use his delegations for this Gateway Determination as the proposal is inconsistent with the Mid North Coast Regional Strategy in proposing to rezone land, identified by the Strategy as proposed employment land, for rural residential purposes.

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 explains the intent of the planning proposal to rezone a small area of land to enable a large lot residential use.**

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

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

Comment : **The explanation of provisions indicates that the planning proposal is intended to be delivered through an amendment to Great Lakes LEP 2013.**

Draft Great Lakes LEP 2013 is close to being finalised. The subject planning proposal will progress as an amendment to LEP 2013 with land use and lot size provisions consistent with LEP 2013. This is outlined within the planning proposal and Council's supporting letter.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.3 Home Occupations

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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 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? **Yes**

If No, explain :

Minor inconsistency with s117 Direction - 1.2 Rural Zones, 1.5 Rural Lands and 5.1 Implementation of Regional Strategy is discussed under the Assessment tab of this report. As are requirements relating to s117 Direction - 2.3 Heritage Protection, 4.1 Acid Sulphate Soils, SEPP 44 - Koala Habitat Protection and SEPP 55 - Remediation of Land.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council's preference is for a minimum 28 day exhibition period.

Council intends to exhibit the proposal consistent with the Gateway requirement and to consult various Agencies, including Midcoast Water, other service providers (e.g. electricity and telecommunications) and the Karuah Aboriginal Land Council.

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 : **December 2013**

Comments in
relation to Principal
LEP :

Draft LEP 2013 is with the Department. Final instrument provisions are being resolved with PC and Legal and in consultation with Council.

Assessment Criteria

Need for planning
proposal :

The planning proposal report simply states that subdivision of the site for large lot residential purposes is not permissible under the current zoning and therefore the rezoning of the land is required to allow the large lot residential land use.

However, a supply and demand assessment is included under the heading "social and economic effects" of the planning proposal. It is noted that there is limited supply of rural residential land around Stroud. Draft LEP 2013 indicates two precincts of R5 land on the eastern side of Stroud. One is already developed. The second site is vacant and 10 rural residential sized lots between 1 and 1.2 ha have been approved by Council. This subdivision is yet to be constructed. The nearest other lands identified for rural residential development are at Bulahdelah and Nabitac in the Great Lakes LGA and at Gloucester in the Gloucester LGA.

The planning proposal also notes that there are two mining related development proposals in the Stroud/ Gloucester area. An application for the Rocky Hill Coal Project is currently under assessment by the Department and if approved will employ 250 people and have other indirect flow on effects. It is therefore concluded that there is likely to be strong demand for large lot residential in Stroud.

Consistency with
strategic planning
framework :

State Environmental Planning Policies

The proposal is considered to be generally consistent with relevant State Environmental Planning Policies.

SEPP 44 - Koala Habitat Protection. The site is largely cleared but there is a stand of Tallowood (*Eucalyptus microcorys*) which is listed as a Koala feed tree species under SEPP 44. This vegetation is potential Koala Habitat. But is is considered highly unlikely that the vegetation will constitute core Koala habitat based on the limited connectivity and lack of ground cover. Future development can be designed to avoid removal of trees and the planning proposal report suggests that an ecological report identifying existing trees suitable for retention be prepared post Gateway determination.

This approach to assess potential impacts on Koala habitat is supported and will assist Council in determining if the subject land constitutes core Koala habitat. At this stage it is not considered necessary for the Director General to give a direction that sections 57 and 61 of that Act are to apply to a draft local environmental plan (with the consequence that the council must prepare an environmental study of the land to which the draft local environmental plan applies).

SEPP 55 - Remediation of Land. The planning proposal notes that the land has been extensively cleared for agricultural pursuits. Geo-technical and Preliminary Contamination investigations have not been carried out over the site and it is noted that a Preliminary Potential Contaminated Land assessment is proposed to be undertaken post Gateway determination.

Local Strategy

The Great Lakes Rural Living Strategy (GLRLS) identifies an area west of Stroud, including the subject land, as being suitable for Rural Fringe development with a maximum 1ha lot size. Council's covering report and the planning proposal note that the Local and Regional Strategy applying to the site are in conflict and that the planning proposal process is the mechanism to resolve the inconsistencies between the two Strategies.

The planning proposal notes that the former Department of Planning and Natural Resources, in its response of 3 March 2005 to the GLRLS, made specific comment on the Briton Road Precinct. This stated that it preferred the GLRLS to promote and facilitate urban development within the precinct, given its location immediately adjacent to the existing residential district of Stroud. The planning proposal argues that the proposed Large Lot Residential is consistent with the general findings of the GLRLS and satisfies the Department's previous advice by applying a 5,000 sq metre lot size.

An assessment of supply and demand of residential land in Stroud has also been undertaken. In summary it was found that there are extensive zoned residential land parcels that could, in addition to existing vacant lots within Stroud, provide 225 lots. It is therefore argued that there is more than enough supply of standard suburban type residential land in Stroud and that there is no basis to zone the subject site to provide for more standard residential development lots.

The GLRLS also requires that a number of studies be prepared to accompany Rural Fringe development including, traffic ecological, drainage / flood investigations, bushfire risk, effluent disposal, scenic and landscape analysis, land release staging and the protection and management of riparian zones. These matters are discussed in the planning proposal and it is proposed that an ecological study, traffic assessment, Aboriginal due diligence assessment, preliminary contamination assessment and information on conceptual stormwater management be undertaken or provided post Gateway determination.

Mid North Coast Regional Strategy

The Mid North Coast Regional Strategy (MNCRS) identifies the subject site as Proposed Employment Lands. But as noted above the GLRLS identifies the site as rural fringe

development. The strategies are therefore in conflict. The Department liaised closely with Council in preparing the MNCRS and the identification of the site for employment lands was done having regard to Council's planning objectives for Stroud at the time.

Council in its covering report now notes that the MNCRS states that industrial land supply should be at or near higher order centres (which is not the case for this site) and encourages rural residential development close to existing settlements away from the coast. Council also argues that there are no expected short or medium term economic benefits to the Stroud area resulting from the identification of the site for future industrial uses. But the proposal will provide an increase in housing /living diversity and choice in the Stroud area and there are tangible economic benefits from increased housing opportunities that meet market requirements as well as employment opportunities in building and allied trades.

An assessment of the supply and demand of employment land in and in close proximity to Stroud was also undertaken as part of the planning proposal. In summary it is noted that:

1. There is a large industrial development occurring at nearby Stratford in the Gloucester LGA, consisting of 135 ha of serviced industrial land located near Gloucester Coal's Stratford Operations. To date no industrial development has occurred on the land
2. There is significant capacity in the existing Gloucester Industrial area with 15 - 20 vacant lots, plus the potential to re-subdivide under-utilised allotments.
3. Approximately 32 hectares of land in three separate parcels of land are also zoned for industrial development in the Gloucester LGA.
4. Great Lakes Economic Development Manager advises that based on the forecasted regional demand outlined in the MNCRS, forecasted local demand and the current and future supply of industrial land just north in the Gloucester Shire, it is unlikely the total area of land identified in the MNCRS near Briton Court Road, including this site, will be needed to satisfy the demand for industrial uses up to 2031.
5. It is also noted that industries are a permitted use in the RU2 - Rural Landscape zone which is proposed to be applied to much of the land around Stroud under draft Great Lakes LEP 2013.

The MNCRS also requires that "Future rural residential land will only be zoned for release if it is in accordance with a local growth management strategy agreed to between Council and the Department of Planning and consistent with the principles of the Settlement Planning Guidelines". The MNCRS also notes that innovative development proposals can still be considered even though they may be outside the Regional Strategy process, providing the proposal can satisfy the Strategy's Appendix 1 Sustainability Criteria. Table 2 of the planning proposal provides an assessment of the proposal against the Sustainability Criteria. It is considered that the Criteria are satisfied for the subject proposal.

Council's position, having regard to the circumstances outlined, is that on balance the planning proposal for large lot residential should be supported.

S117 Directions

1.2 Rural Zones and 1.5 Rural Lands: The proposal is inconsistent with these directions. These inconsistencies are justified because the planning proposal covers land identified in the MNCRS for development and is of minor significance.

5.1 Implementation of Regional Strategies: The proposal is inconsistent with this direction because it seeks to rezone land identified as future employment land in the MNCRS for large lot residential development. As discussed in the previous section the inconsistency is justified because the proposal is of minor significance and achieves the overall intent of the MNCRS and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

2.3 Heritage Protection. In accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (DECCW 2010), the planning proposal and council

suggests that an Aboriginal Due Diligence Report be prepared post Gateway Determination.

4.1 Acid Sulphate Soils. The site is located on the flanks of a elevated ridge line. It is considered unlikely the site will be affected by ASS. Nevertheless the planning proposal notes that a preliminary potential contaminated land and geotechnical assessment is to be undertaken post gateway and will address this issue.

4.3 Flood Prone Land. Approximately half of the site is flood prone. But the area proposed to be rezoned for large lot residential is flood free. In particular the planning proposal notes that the site contains land which is raised (approximately 30-40m AHD) which is flanked by low lying floodplain adjacent to the Karuah River to the west and Mill Creek to the east.

The planning proposal also states that the Stroud Flood Study (2012) applies to the subject land and that Council has determined a FPL at the site that is consistent with the Floodplain development manual. Draft LEP 2013 also adopts the model local Flood Planning clause which ensures flood risks are appropriately assessed but also to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change.

Environmental social
economic impacts :

As discussed above the planning proposal for large lot residential development will provide an increase in housing /living diversity and choice in the Stroud area and flow on economic benefits to the local community and building and allied trades.

It is proposed that an ecological study, traffic assessment, Aboriginal due diligence assessment, preliminary contamination assessment and information on conceptual stormwater management be undertaken or provided post Gateway determination.

The land proposed for residential uses also adjoins land to the south currently used for light industrial purposes (including the Mid Coast Water Treatment Facility). It is noted that a vegetative buffer is proposed but it would be prudent to advise Council to carefully consider the need for noise and odour studies to be undertaken post Gateway.

Undertaking the required studies will ensure all relevant potential environmental and social/ heritage issues are addressed prior to the planning proposal being publically exhibited.

The land is not mapped as Bushfire Prone Land. Reticulated water and sewerage, electricity and telecommunications are available. Consultation with service agencies will determine whether any upgrading or augmenting of services is required. Road access is available via bitumen sealed Briton Court Road and Lamon Street which in-turn intersects and connects with the Stroud town via main road Bucketts Way. The Stroud Flood Study indicates Lamon Street would be flooded in the 5% ARI flood event (1 in 20 year) and Briton Court in the 2% ARI flood event (1 in 50 year).

Assessment Process

Proposal type :	Inconsistent	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :	TRUenergy Telstra Other		

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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

Heritage

If Other, provide reasons :

The planning proposal notes that the Department's "A Guide to preparing Planning Proposals", indicates that generally technical studies and investigations should not necessarily be carried out upfront. The issues which give rise to the studies should be identified and this would be confirmed by the "Gateway Determination".

Council in its covering report and the planning proposal suggest that an ecological study, traffic assessment, Aboriginal due diligence assessment, preliminary contamination assessment and information on conceptual stormwater management be undertaken or provided post gateway.

This is to address the requirements of SEPP44, SEPP55, access and traffic impacts onto Bucketts Way, and to understand how stormwater drainage will be addressed given the site drains directly to the Karuah River and Mills Creek.

As noted above the land proposed for residential uses also adjoins land to the south currently used for light industrial purposes (including the Mid Coast Water Treatment Facility). It is therefore considered prudent to advise Council to carefully consider the need for noise and odour studies to be undertaken post Gateway and prior to the exhibition of the planning proposal.

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 Briton Court Road Stroud (received via email 12.11.13).pdf	Proposal	Yes
Council Covering Letter and Report.pdf	Proposal Covering Letter	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**
- 2.3 Heritage Conservation**
- 3.3 Home Occupations**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**

Additional Information : **The planning proposal should proceed with conditions.**

1. Council's intention to undertake an ecological study, traffic assessment, Aboriginal due diligence assessment, preliminary contamination assessment and provide information on conceptual stormwater management, prior to public exhibition is supported.
2. It is noted that a vegetative buffer is proposed between the adjoining existing light industrial area (which includes a Mid Coast Water treatment plant) and the proposed rural residential development. However, it would be prudent to advise Council to carefully consider the need for noise and odour studies to be undertaken, prior to public exhibition. This will ensure that any land use compatibility issues are adequately addressed upfront as part of the planning proposal.
3. The Director General's delegate should approve the minor inconsistency with s117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 5.1 Implementation of Regional Strategies.
4. Council's recommendation that consultation with the following agencies be undertaken is supported:
 - * Midcoast Water
 - * NuEnergy
 - * Telstra
 - * Kaurah Local Aboriginal Land Council.
5. Council's recommendation for a 28 day exhibition period is supported because of the variation to the Mid North Coast Regional Strategy.
6. A twelve month timeframe to complete the proposal is proposed because of the need for a number of studies to be undertaken, prior to public exhibition.
7. The planning proposal is considered to have minor impacts. It is therefore recommended Council be given plan-making delegations. Council's planner has also verbally indicated that Council would be happy to accept delegations for this matter.

Supporting Reasons :

Albeit that the proposal is inconsistent with the Mid North Coast Regional Strategy (MNCRS) it is consistent with The Great Lakes Rural Living Strategy (GLRLS) which identifies an area west of Stroud, including the subject land, as being suitable for Rural Fringe development. It is also noted that the MNCRS states that industrial land supply should be at or near higher order centres (which is not the case for this site) and encourages rural residential development close to existing settlements away from the coast.

Land supply analysis has shown that there is a significant supply of existing and proposed industrial land in the more major town of Gloucester, 30 minutes north of Stroud.

There are also ample opportunities for standard low density residential development in Stroud but a shortage of large lot residential opportunities. The proposal will therefore arguably provide an increase in housing /living diversity and choice in the Stroud area and there are tangible economic benefits from increased housing opportunities that meet market requirements as well as employment opportunities in building and allied trades.

The site is well located on the fringe of Stroud and the proposed large residential land uses will have good access to and will help support the existing community and retail/ commercial services and facilities provided in the Stroud town centre.

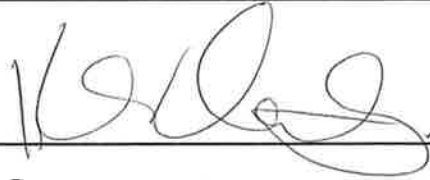
The proposal has been assessed against and satisfies the MNCRS Appendix 1 Sustainability Criteria used for considering innovative proposals that are outside the urban and employment land release areas identified by the Strategy.

Council supports the proposal. On balance it is considered the proposal will have positive environmental, social and economic impacts and that there is an overall public

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benefit in it proceeding.

Signature:



Printed Name:

K. O'FLAHERTY

Date:

28-11-13