

Cessnock Local Environmental Plan 2011 Amendment - Rose Hill, Millfield

Proposal Title :	Cessnock Local Environmental Plan 2011 Amendment - Rose Hill, Millfield		
Proposal Summary :	The Planning Proposal aims to rezone the subject land from RU2 Rural Landscape to R5 Large Lot Residential under the Cessnock Local Environmental Plan 2011. The rezoning will permit the subdivision of up to 100 residential allotments with a minimum lot size of 4,000m ² .		
PP Number :	PP_2013_CESSN_004_00	Dop File No :	13/01720

Proposal Details

Date Planning Proposal Received :	25-Jun-2013	LGA covered :	Cessnock
Region :	Hunter	RPA :	Cessnock City Council
State Electorate :	CESSNOCK	Section of the Act :	55 - Planning Proposal
LEP Type :	Precinct		

Location Details

Street :	Part Lot 12 DP 1181682		
Suburb :	ROSE HILL, MILLFIELD	City :	CESSNOCK
		Postcode :	2325
Land Parcel :			

DoP Planning Officer Contact Details

Contact Name :	Trent Wink
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RPA Contact Details

Contact Name :	Scott Christie
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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 :	N/A
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :		Date of Release :	
Area of Release (Ha) :	56.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	100	No. of Dwellings (where relevant) :	100
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 : **Background**
The subject land was part of a previous rezoning proposal known as Sanctuary Villages, which was declared a potential State Significant Site.

In October 2009, the Planning Assessment Commission recommended approval based on a merit assessment of a Concept Plan and Stage 1 Project Plan for the "Sanctuary Villages" development. Subsequent legal opinion and advice from the Department of Planning in December 2009 advised that the Minister for Planning had no power to determine the application as a result of the decision in the Land and Environment Court (Gwandalan Summerland Point Action Group Inc v Minister for Planning 2009). The Part 3A application was subsequently discontinued.

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 permit up to 100 rural residential allotments with a minimum area of 4000sqm.**

The proposed subdivision will be compatible with the adjoining land zoned rural residential. There is also a rural residential estate on the opposite side of Millfield Road.

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

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

Comment : **The explanation of provisions explains that the site will be rezoned R5 Large Lot Residential under the Cessnock Local Environmental Plan 2011.**

This will involve:-

1. Amend the Land Zoning Map to rezone part of the subject land from RU2 Rural Landscape to R5 Large Lot Residential.

2. Amend the Minimum Lot Size Map for part of the subject land from 40 hectares to 4,000m².

Council advises that it intends to amend its DCP to restrict the number of rural residential allotments to a maximum of 100 because the existing infrastructure and services has limited capacity. This is discussed in more detail later in the report.

The DCP is required to be consistent with the LEP and cannot reduce the permissible residential density. Therefore the DCP needs to stipulate the infrastructure requirements based on the number of rural residential allotments. For example, to create more than 100 rural residential allotments it is necessary to provide the required traffic infrastructure upgrades. Alternatively, Council may reduce the amount of land being rezoned.

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

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Infrastructure) 2007

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

N/A

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

If No, explain :

The Department endorsed the City Wide Settlement Strategy 2003

SEPP No 44—Koala Habitat Protection

Comment: The site is predominantly cleared as used for grazing. Council has formed the opinion that the site is not considered 'Potential Koala Habitat'.

SEPP No 55—Remediation of Land

Comment: A preliminary environmental assessment indicates that the majority of the site would not contain contamination likely to impact on potential future residential usage. Council has formed the opinion that no further assessment is required prior to rezoning the land for large lot residential purposes.

SEPP (Infrastructure) 2007

Comment: Relevant for future land uses.

Minister's s117 Directions

1.2 Rural Zones

Comment: The Draft LEP is inconsistent with this direction because it rezones land from RU2 Rural Landscape to R5 Large Lot Residential. The inconsistency is justified by LHRs, which identifies the subject land as a potential urban release area.

1.3 Mining, Petroleum Production and Extractive Industries

Comment: Consultation with the Department of Primary Industries required to determine consistency with this Direction.

1.5 Rural Lands

Comment: The Draft LEP is inconsistent with this direction because it affects land

within a rural zone. The inconsistency is justified by LHRS, which identifies the subject land as a potential urban release area.

2.1 Environment Protection Zones

Comment: The DLEP is consistent with this direction as the subject site does not contain any significant vegetation.

2.3 Heritage Conservation

Comment: An Aboriginal scar tree is located on the subject site. The DLEP is consistent with this direction. The scar tree is registered on the certificate of title via a positive covenant and will remain protected. Council should consult with the Office and Environment & Heritage and the NSW Aboriginal Land Council to ensure the proposed level of protection of the scar tree is adequate.

3.1 Residential Zones

Comment: The DLEP is currently consistent with this direction. If Council decides to cap the number of rural residential allotments in the LEP, the Director General's approval will be required.

3.4 Integrating Land Use and Transport

Comment: The DLEP is consistent with this direction. The development will take advantage of existing infrastructure and services

4.4 Planning for Bushfire Protection

Comment: 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.

5.1 Implementation of Regional Strategies

Comment: The Lower Hunter Regional Strategy identifies the subject land as a potential urban release area with a targeted lot yield of 12 dwellings per hectare. This planning proposal is inconsistent with the targeted density yield of 12 dwellings. Council supports the rezoning based on surrounding developments and the existing infrastructure and services has limited capacity. The applicant should be required to prepare an economic feasibility assessment to demonstrate that the projected yield under the strategy is unattainable. This will assist Council to address the inconsistency with the s117 Direction.

6.3 Site Specific Provisions

Comment: The DLEP is currently consistent with this direction. If Council decides to cap the number of rural residential allotments in the LEP, the Director General's approval will be required. The Department does not support this approach when it can be addressed by stipulating the infrastructure requirements in its DCP.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Council has provided draft zoning and minimum lot size maps

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The Department supports Council's decision to exhibit the planning proposal for 28 days. This will provide sufficient time to consult land owners and community members who had previously made a submission to Sanctuary Villages, when it was being considered as a potential State significant site.

The exhibition will involve:-

- Notification in the Cessnock Advertiser, locally circulated newspaper;
- Hard copy display at Council's Administration Building (Help & Information Centre); and Cessnock Public Library;
- Web based notification on Council's website at www.cessnock.nsw.gov.au; and
- Consultation with the adjoining land owners and community members who have previously made a submission in regard to this development.

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 SILEP was published on 23 December 2011

Assessment Criteria

Need for planning
proposal :

Yes. The preparation of a Planning Proposal is the most appropriate mechanism to investigate whether the subject land should be rezoned.

Consistency with
strategic planning
framework :

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy identifies the subject land as a potential urban release area with a targeted lot yield of 12 dwellings per hectare. This planning proposal is inconsistent with the targeted density yield of 12 dwellings. Further the LHRS indicates no additional rural residential development.

Council supports the rezoning based on surrounding developments and because the existing infrastructure and services has limited capacity, in particular traffic and sewer. In 2008, the traffic report recommended that traffic infrastructure upgrades would be required for the development of more than 100 lots. An updated traffic report is required to assess the cumulative impact of recent developments in the locality. Also the development of more than 100 allotments will result in the proposed development not complying with Hunter Water's guidelines for pressure sewer systems stipulated by the Water & Sewer Design Manual.

Council also supports the rezoning on the basis that it may be possible to develop the subject land at a higher residential density in the future because the R Large Lot zone objective states that large residential lots should not hinder the proper and orderly development of urban areas in the future. However in practice redeveloping rural residential areas with multiple land owners is very challenging.

To address this inconsistency with the LHRS, the applicant should prepare an economic feasibility assessment to demonstrate that the projected yield under the Strategy is unattainable.

City Wide Settlement Strategy (2010)

Council's settlement strategy identifies the subject land as a new urban area.

Environmental social
economic impacts :

Environmental Impacts

The subject land does not contain any significant vegetation.

Social and Economic Impacts

Social and economic impacts are considered to be positive through the provision of additional housing opportunities in proximity to existing services and infrastructure.

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Council recommends the preparation of a social impact assessment to determine whether any upgrades or additional community and/or recreational facilities are required.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) :
NSW Aboriginal Land Council
Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Department of Primary Industries - Minerals and Petroleum
Hunter Water Corporation
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. :

Other - provide details below

If Other, provide reasons :

Council has indicated that the following studies are required:-

- **Aboriginal Archaeological report**
- **Flora & Fauna Assessment**
- **Traffic Impact Assessment**
- **Bushfire Assessment**
- **Social Impact Assessment**
- **Flooding, Drainage and Stormwater Management**
- **Preliminary Geotechnical and Hydro-geological Study**

To address the planning proposal's inconsistency with the LHRS, the applicant should prepare an economic feasibility assessment to demonstrate that the projected yield under the Strategy is unattainable.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **The subject land is mapped under the draft Lower Hunter Special Contribution Area**

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal _ Rose Hill - Millfield.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**
 1.3 Mining, Petroleum Production and Extractive Industries
 2.1 Environment Protection Zones
 2.3 Heritage Conservation
 3.1 Residential Zones
 3.4 Integrating Land Use and Transport
 4.4 Planning for Bushfire Protection
 5.1 Implementation of Regional Strategies
 6.3 Site Specific Provisions

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

1. The Planning Proposal be supported.

2. Council has indicated that the following studies are required:-

- **Aboriginal Archaeological report**
- **Flora & Fauna Assessment**
- **Traffic Impact Assessment**
- **Bushfire Assessment**
- **Social Impact Assessment**
- **Flooding, Drainage and Stormwater Management**
- **Preliminary Geotechnical and Hydro-geological Study**

The planning proposal should be updated and placed on public exhibition within 4 weeks of receiving the required studies.

3. The subject site be identified as an Urban Release Area, which triggers the relevant State infrastructure and DCP clauses.

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:

- **Rural fire Service**
- **NSW Aboriginal Land Council**
- **Office of Environment and Heritage**
- **NSW Department of Primary Industries - Minerals and Petroleum**
- **Hunter Water Corporation**

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. The Director General (or delegate) approves the minor inconsistencies with the Minister's S117 Direction 1.2 Rural Zones and 1.5 Rural Lands because the inconsistencies are justified by the Lower Hunter Regional Strategy.

7. Prepare an economic feasibility assessment to demonstrate that the projected yield under the Strategy is unattainable. This will also address the planning proposal's inconsistency with the LHRS.

8. Council needs to address the Minister's S117 Direction 5.1 Implementation of Strategies after taking into consideration the economic feasibility and social

assessment.

9. 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.

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

In the covering letter, Council should be advised that it is not possible to reduce the permissible residential density in its DCP. It is necessary for the DCP to be consistent with the LEP. To address this issue, the DCP should stipulates the required infrastructure upgrades based on the number of rural residential allotments released.

Supporting Reasons :

The Lower Hunter Regional Strategy identifies the subject land as a potential urban release area with a targeted lot yield of 12 dwellings per hectare. This planning proposal is inconsistent with the targeted density yield of 12 dwellings. The applicant should prepare an economic feasibility assessment to demonstrate that the projected yield under the Lower Hunter Regional Strategy is financially unattainable

Signature:



Printed Name:

KONLAHERY

Date:

5/7/13