

Planning Services

Plan Finalisation Report

Local Government Area: Singleton

File Number: OBJ13/08652

NAME OF DRAFT LEP

Singleton Local Environmental Plan 2013 Amendment No.7 (draft LEP).

SITE DESCRIPTION

The planning proposal applies to land at Bridgeman Road Obanvale, Singleton (the site).

PURPOSE OF PLAN

The draft LEP seeks to:

- Rezone the subject land from RU1 Primary production zone to:
 - R5 Large Lot Residential (5.15ha);
 - R2 Low Density Residential (3.25ha);
 - R1 General Residential (39.38ha); and
 - RE1 Public recreation zones (2.44ha);
- Change the existing minimum lot size for the subject land from 40 hectares:
 - R2 - 1,000 sq/m
 - R5 - 1ha; and
 - Noting that the R1 and RE1 zones do not have a minimum lot size; and
- Map the site as an urban release area.

The proposal couple potentially provide for around 367 dwellings.

STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Upper Hunter Electorate with Michael Johnson MP as the State Member.

Joel Fitzgibbon MP is the Federal Member for Hunter.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.
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NSW Government reportable political donation: there are no donations or gifts to disclose and a political donation disclosure is not required.

GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 11 June 2013 (**Attachment C**) determined that the proposal should proceed subject to conditions. The Gateway determination was altered on 22 June 2015, 18 November 2015, 21 December 2016 and 6 July 2017 to extend the time for completion.

The proposal was due for finalisation 18 December 2017. The finalisation briefing note has recommended that a further extension be granted to enable the proposal to be completed.

PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 6 February 2017 and 9 March 2017. The exhibited Planning Proposal was updated to include information as outlined in condition 1 of the determination.

Three submissions were received from the community, two objecting and one in support. The issues raised included, servicing and sewer capacity, and how it will manage the potential impacts from Rix's Creek Mine.

Sewer servicing has been investigated and addressed through a water and sewer servicing study that outlines the staging of the development and demonstrates that the site can be adequately serviced.

Changes were made post exhibition as discussed under that have addressed the issues raised regarding the mine operation impacts. Department of Planning and Environment – Resources and Geosciences division has since withdrawn its objection in response to the changes.

ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult the following agencies in accordance with the Gateway determination.

- Office of Environment and Heritage;
- NSW Aboriginal Land Council;
- Department of Primary Industries – Agriculture;
- NSW Rural Fire Services (Section 9.1 Direction 4.4 Planning for Bushfire Protection); and
- NSW Trade and Investment - Minerals and Petroleum (now, Department of Planning and Environment – Resources and Geosciences division) (Section 9.1 Direction 1.3 Mining, Petroleum Production and Extractive Industries).

Council has consulted the above authorities and the following issues were raised.

Office of Environment and Heritage - Did not raise objection to the planning proposal. The response indicated that suitable mechanisms should be put in place to rehabilitate native vegetation within the gullies on the site. It also indicated that an Aboriginal Heritage Impact Permit (AHIP) would be required under Section 90 of the National Parks and Wildlife Act 1974 for any future proposal(s) to develop the site.

NSW Rural Fire Service - did not raise objection to the planning proposal. The response indicated that future development of the site should place larger lots in proximity to bushfire prone vegetation on the site. It also provides recommendations for the design of future development of the site to be consistent with the requirements of Planning for Bushfire Protection.

Primary Industries (Agriculture) - did not raise objection to the planning proposal.

Wanaruah Local Aboriginal Land Council – did not respond to the referral. The Aboriginal and Historic Heritage Due Diligence Assessment indicated that the project aims to avoid any culturally sensitive areas and as such consultation with Aboriginal community stakeholders was not necessary for the purposes of the assessment.

Department of Planning and Environment - Resources and Geoscience division – lodged a submission and raised an objection to the planning proposal on the grounds that:

- The proximity of the proposed residential development to Rix's Creek Mine and associated infrastructure may impact upon the ability of the mine to fully recover coal resources under its lease.
- A proposed rail loop and loading facility (DA49/94 Mod 5) would be near the site and have potential dust and noise impacts on future residents.

POST EXHIBITION CHANGES

Council has amended the land use zone boundaries and proposed minimum lot size maps post exhibition in response to further consultation with the Department of Planning and Environment - Resources and Geoscience division in relation to managing mining impacts (**Attachment F**). The proposed changes have reduced the overall development yield of the site to manage land use conflict potential with the nearby Rix's Creek mining operations.

The Regional team support the proposed changes by Council which will better manage the risk of land use conflict from the mining operations and future residential land uses.

ASSESSMENT

The Planning Proposal (PP) seeks to rezone additional land primarily for residential purposes. Through the provision of an additional residential development in North Singleton, the planning proposal will improve Singleton's ability to respond to future demand for residential housing. It is expected that the site could provide for up to 367 new dwellings.

Since the issue of the gateway determination for the planning proposal, consultation was undertaken with relevant public agencies and the community. This led to minor modifications to the proposed zoning and minimum lot size requirements for subdivision. Based on these changes, objections to the planning proposal were withdrawn.

The changes reduce the potential lot yield from the site and reduce the potential for land use conflict with nearby mining and agricultural land uses. It is recommended that the LEP amendment be made in accordance with the revised planning proposal.

Section 9.1 Directions

The Secretary's delegate agreed the PP's inconsistency with Section 9.1 Direction 1.2 Rural Zones was of minor significance (11 June 2013).

This report recommends that the inconsistency with Direction 1.3 Mining, Petroleum Production and Extractive Industries has now been resolved and is considered minor and that the requirement of Direction 4.4 Planning for Bushfire Protection have also been met.

State Environmental Planning Policies

The draft LEP is consistent with relevant SEPPs.

In relation to SEPP 55, a Preliminary Hazard Analysis (2013) was undertaken that indicated low level risks of contaminants. Council propose to address the risks associated with contamination through DCP provisions which is considered appropriate.

MAPPING

The proposed LEP amendment includes mapping amendments for land use zoning, lot size and urban release area. The number and names of the maps are correct have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

Minor mapping errors have been corrected and were forwarded to the Department on 24 April 2018.

CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (**Attachment D**). Council confirmed on 19 December 2017 that it was happy with the draft and that the Plan should be made (**Attachment E**).

PARLIAMENTARY COUNSEL OPINION

On 22 December 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion was updated and reissued without change on 1 May 2018 and is provided at **Attachment PC**.

RECOMMENDATION

It is recommended that the Minister's delegate determine to make the draft LEP because:

- The plan will provide for more residential land supply and increase the number of active developers to provide greater competition in the Singleton residential land market.
- The objection from Department of Planning and Environment - Resources and Geoscience division on behalf of the mine operator has been withdrawn following amendments to the plan to reduce potential land use conflict.



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