

Rusty Lane Branxton, Amendment to Singleton LEP 1996

Proposal Title : **Rusty Lane Branxton, Amendment to Singleton LEP 1996**

Proposal Summary : **To rezone approximately 42 hectares of land from 1(a) Rural Zone to 1(d) Rural Small Holdings Zone to facilitate the development of 35 rural residential lots.**

PP Number : **PP_2011_SINGL_005_00** Dop File No : **11/17387**

Proposal Details

Date Planning Proposal Received : **10-Nov-2011** LGA covered : **Singleton**

Region : **Hunter** RPA : **Singleton Shire Council**

State Electorate : **UPPER HUNTER** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Rusty Lane**

Suburb : **Branxton** City : Postcode : **2335**

Land Parcel : **Lot 404 DP866648 and Lot 1 DP1060691**

DoP Planning Officer Contact Details

Contact Name : **Katrine O'Flaherty**

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RPA Contact Details

Contact Name : **Gary Pearson**

Contact Number : **0265787304**

Contact Email : **gpearson@singleton.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**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	42.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	35	No. of Dwellings (where relevant) :	35
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes :

The Executive Director of Planning Operations has previously expressed concern regarding the length of time it is taking for Singleton Council to finalise planning proposals. Of the twelve existing planning proposal's for the LGA, nine have required gateway extensions and remain outstanding.

The Regional Team has discussed the matter with Council and are aware that a lack of site investigation prior to the gateway, particularly for sites identified within the endorsed Strategy, is a significant factor in causing delays at later stages. In particular the lack of early consideration of potential zones, e.g environmental and therefore limitations to resolving agency concerns post gateway has led to substantial delays.

The Regional Office has discussed this issue with Council and has advised that, for sites within the endorsed Strategy, additional investigation prior to a gateway determination should be encouraged. The Deputy Director General Plan Making and Urban Renewal was advised of the issues and acknowledged the approach in his signing of a briefing note and letter to council regarding gateway extensions, which has been attached.

This planning proposal was submitted prior to these discussions and is therefore not consistent with this new approach. It is hoped that the Gateway Determination will be consistent with this approach and contribute to improving planning timeframes within the LGA.

External Supporting Notes :

The Planning Proposal was submitted by Council on 22 September 2011, however additional information on the proposal and on the planning processes within Singleton more generally was required before it could be assessed. This information was provided by email on 13 October 2011 and through a meeting with Council on 10 November 2011.

Adequacy Assessment

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

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

Comment :

The objectives adequately explain that the intent of the planning proposal is to facilitate rural residential development, with an appropriate minimum lot size and supported by a development control plan.

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

Is an explanation of provisions provided? **No**

Comment : The explanation of provisions indicates that the planning proposal is intended to be delivered through an amendment to the existing 1996 LEP. It also indicates that a zoning map and lot size map will be prepared and that the LEP will require a development control plan be prepared prior to development consent being granted. The proposal also identifies that if the amendment was to proceed as an amendment to the new comprehensive LEP the zoning would be R5 Large Lot Residential and the relevant mapping, including a lot size map, would need to be prepared.

The explanation of provisions also indicates that the proposal will amend the zone and lot size of a small portion of land across the road from the main site, Lot 404 DP866648. Council has indicated that this is required to be done to excise the area from the Branxton North East Candidate Area. The need for this is unclear as the portion does not form part of the candidate area in the endorsed Strategy. Furthermore its inclusion in the Strategy does not provide any effect in relation to the LEP and there is no need for it to be excised. Progression of the proposal in relation to this site is not supported until further explanation is provided.

The explanation of provisions is not considered adequate because the lot size map provided does not adequately describe the lot sizes that will exist across the site and therefore is not suitable for public exhibition. The need for the rezoning and amendment of lot size for Lot 404 DP866648 is also unclear.

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

* May need the Director General's agreement

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified? **N/A**

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

Although council are of the opinion that s117 directions 2.4 Recreation Vehicle Areas and 3.2 Caravan Parks and Manufactured Home Estates do not apply to this proposal they apply anytime a planning proposal is prepared and must be assessed. It is considered that the proposal is consistent with these directions.

The proposal seeks to rezone the land to R5 Large Lot Residential under the draft LEP 2012, this is considered a residential zone therefore direction 3.1 Residential Zones also applies.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Additional consultation is required before the Director General's delegate can determine whether or not the proposal is consistent with s117 direction 2.1 Environment Protection Zones, 3.1 Residential Zones and 4.4 Planning for Bushfire Protection.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **The mapping, which includes a map of the zone amendment and lot size, is not adequate to be publicly exhibited because the lot size map does not explain the distribution of lot sizes across the site.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The proposal is considered a minor spot rezoning and consultation for a period of 14 days is considered adequate.**

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? **No**

If No, comment : **In particular the proposal;**

- **is inadequate because it does not provide a lot size map that clearly identifies the distribution of lot sizes across the site. Without this information the size of the lot or lots that contains the portion of EEC on the site is not known and therefore cannot be commented upon.**
- **is inadequate because it does not justify the amendment to Lot 404 DP866648**
- **is inadequate because it is not the most effective and timely method available to achieve the objectives. The proposed lot size approach and development control plan are considered likely to take considerable time and are the only mechanisms considered to address the site constraints of contours, vegetation and bushfire risk. The potential to zone the remnant vegetation to an environmental zoning with sufficient cleared land to accommodate a dwelling has not been considered.**
- **Is inadequate because it does not justify the inconsistency with the endorsed Singleton Strategy (Relevant sections attached). In particular the proposal is inconsistent with the objectives of the Strategy in relation to the servicing and sequencing of future sites and the level of investigation that is required to be undertaken before sites progress. The Strategy had indicated that a much higher yield from this site could be possible if sewer was made available. The proponents suggest that the sewer connection required to accommodate this higher density is not economically feasible, however sewer is available only a short distance from the site. Council needs to consider how their support for the proposal provides for the highest and best use for the site close to the existing town of Branxton and does not act as a precedent for all other identified release areas.**

Proposal Assessment

Principal LEP:

Due Date : June 2012

Comments in relation to Principal LEP : **Council submitted their new comprehensive LEP at s64 in November 2011. The LEP is proposed to be completed by mid 2012. It is not considered appropriate to incorporate this proposal into the new comprehensive at this stage. However it is appropriate that this proposal proceed to amend both the existing and the new draft LEP, to ensure that the proposal remains valid if delays result in it becoming an amendment to the new LEP.**

Assessment Criteria

Need for planning proposal :

No information relating to the need for the proposal has been provided. There is no advice regarding consistency with Council's objective (Strategy attached) that 30 lots per year will be provided in the Branxton area and following the gazettal of 88 hectares of land known as the Branxton North West candidate area in December 2010.

The proposed amendment is not considered the most effective and timely method available to achieve the objectives and intended outcomes of the proposal. It is considered that the work required to resolve the lot size and prepare the development control plan will result in unnecessary delays to the proposal as has occurred with a number of other similar proposals within the LGA. It is considered appropriate that Council consider changes to the amendment that may include the use of an environmental zone and introduction of a consistent minimum lot size for the remainder of the site. Council's current LEP 1996 includes an environmental living zone and the draft LEP 2012 includes both the E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living zones.

Consistency with strategic planning framework :

The planning proposal is identified within the endorsed Singleton Land Use Strategy. However the proposal is not consistent with the objectives of the Strategy in relation to the development of rural residential land nor the density and areas for investigation identified in relation to this particular piece of land.

The Strategy (extract attached) identifies that rural residential land should be adequately serviced, staged and sequenced according to the provision of adequate water supply and reticulated sewer as well as other infrastructure and that biodiversity, water and sewer reviews should be undertaken prior to determining zone boundaries and minimum lot sizes.

The Strategy identifies the site as having the potential to provide for 87 lots if sewer is made available. The proposal indicates that the proponent believes connection to sewer is currently economically unfeasible and a larger lot size is required to accommodate on site sewage disposal. Although the rural residential land adjoining the site has sewer disposal council has indicated that the capacity of that system has been reached. A more consistent approach regarding the requirements of developers in relation to sewer is desirable.

The Strategy also identifies that the 'potential occurrence of listed endangered ecological community requires detailed ecological investigation'. However there has been no consideration of the appropriate lot size to manage this community or alternative zonings for that portion of the site.

The proposal is considered consistent with all relevant SEPP's.

The proposal is inconsistent with the s117 direction 1.2 Rural Zones, because it proposes to rezone rural land for residential purposes and is therefore inconsistent with clause 4a of this direction

Consistency with the following directions requires additional consultation;

2.1 Environment Protection Zones, consultation with the former Office of Environment and Heritage is required to ensure that the proposal provides provisions that facilitate the protection and conservation of environmentally sensitive areas.

3.1 Residential Zones, because it proposes to rezone land for residential purposes without the provision of adequate services. Confirmation that the arrangements are satisfactory to both Council and Hunter Water is required to be consistent with clause 5a.

4.4 Planning for Bushfire Protection, consultation with the NSW Rural Fire Service is required before the proposal can be considered consistent with this direction.

Environmental social economic impacts :

The proposal has the potential to provide additional housing opportunities within proximity to existing areas. The site has been identified as containing a small portion of endangered ecological communities that links to a larger portion of such vegetation within the LGA. The use of this vegetation by vulnerable fauna species has also been recorded.

The proposal indicates that the environmental impacts of rezoning this land for rural residential development may be managed through the lot size and development control provisions, although these have not yet been prepared.

An independent infrastructure assessment has not been undertaken and would be desirable. The proponent indicates that the site has access to reticulated water and does not intend to supply sewer. The land immediately south of the site is serviced with a low pressure sewerage system which is at full capacity. The closest point of connection for sewer is Access Chamber H193 in McMullins Road - halfway between Hillview Road and George Street (approximately 3kms away via road). Some upgrades to road infrastructure is also identified as required.

No costing of this infrastructure has been undertaken.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **12 Month** Delegation : **DDG**

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

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **The planning proposal should not proceed because it is considered inadequate and there are a number of outstanding matters that will result in ongoing delays to the proposal if it was to proceed at this point in time. Council should be asked to undertake the additional work required before resubmitting the proposal to the gateway for determination.**

In particular the proposal;

- Is inadequate because it does not provide a lot size map that clearly identifies the distribution of lot sizes across the site. Without this information the size of the lot or lots that contains the portion of EEC on the site is not known and therefore cannot be commented upon.
- Is inadequate because it does not justify the amendment to Lot 404 DP866648
- Is inadequate because the studies necessary to assess the impact upon biodiversity, determine the appropriate lot size in light of the site constraints and independently assess the servicing potential have not been undertaken.
- Is inadequate because it is not the most effective and timely method available to achieve the objectives. The proposed average lot size approach and development control plan are considered likely to take considerable time and are the only mechanisms considered to address the site constraints of contours, vegetation and bushfire risk. The potential to zone the remnant vegetation to an environmental zoning with sufficient cleared land to accommodate a dwelling has not been considered.
- Is inadequate because it does not adequately justify the inconsistency with the endorsed Singleton Strategy. The Strategy had indicated that a much higher yield from this site could be possible. The proponents suggest that the require sewer connection required to accommodate this higher density is not economically feasible. Council needs to consider how their support for the proposal provides for the highest and best use for the site close to the existing town of Branxton and does not act as a precedent for all other identified release areas.

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Resubmission - s56(2)(b) : **Yes**

If Yes, reasons : **The proposal is within the endorsed Singleton Land Use Strategy, although with a higher potential yield, and is therefore considered to have merit. However the proposal does not provide the most effective and timely method available to achieve the Strategy's intent. As such Council should be directed to reconsider their proposal as well as provide more information to support the proposal and explain the inconsistency with the endorsed Strategy**

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

The proposal identifies a significant number of studies that are to be completed before the proposal is placed on exhibition. These include ecological assessments, heritage assessment, bushfire and traffic impact assessments, servicing strategy and geotechnical studies. It is considered that completing these studies after a gateway determination has been issued will constrain the options available to address any matters that may arise and substantially increase the time taken to process the proposal. Council should carefully consider which of these studies relates to the rezoning of the land and which relates to subsequent development applications.

The completion of an Infrastructure and Services Status Report will assist to confirm the infrastructure required for the site and its availability.

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 : **It is considered that the site is less than 50 hectares, rural residential in nature and, if it remains, unsewered of a low density. As such it is not considered likely that considerable additional demands will be placed on state infrastructure.**

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal with Attachments.pdf	Proposal	Yes
Letter requesting Gateway Determination of Planning Proposal.pdf	Proposal Covering Letter	Yes
DDG PMUR endorsed.pdf	Study	No
Extract endorsed Singleton Land Use Strategy.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Resubmit**

S.117 directions: **1.2 Rural Zones
1.3 Mining, Petroleum Production and Extractive Industries
1.5 Rural Lands
2.1 Environment Protection Zones
2.3 Heritage Conservation
3.3 Home Occupations
3.4 Integrating Land Use and Transport
4.4 Planning for Bushfire Protection
6.1 Approval and Referral Requirements
6.3 Site Specific Provisions**

Additional Information : **The Planning Proposal should be resubmitted after Council have;**

- undertaken the necessary studies to support the proposal, including biodiversity assessment and independent infrastructure and services status report.**
- considered the application of an environmental zoning to portions of the site.**
- provided additional explanation regarding the inclusion of Lot 404 DP866648 which does not form part of the candidate area.**

- provided a lot size map for exhibition.
- considered consistency with s117 direction 3.1 Residential Zones
- provided additional justification regarding the inconsistency with the endorsed Strategy.

It is also recommended that Council generally undertake a higher level of investigation into sites within the endorsed strategy prior to requesting a gateway determination and establish a transparent and consistent approach to determining requirements for sewer connection.

Supporting Reasons :

The planning proposal should not proceed because it is considered inadequate and there are a number of outstanding matters that will result in ongoing delays to the proposal if it was to proceed at this point in time. Council should be asked to undertake the additional work required before resubmitting the proposal to the gateway for determination.

In particular the proposal;

- Is inadequate because it does not provide a lot size map that clearly identifies the distribution of lot sizes across the site. Without this information the size of the lot or lots that contains the portion of EEC on the site is not known and therefore cannot be commented upon.
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Signature:



Printed Name:

Monica Gibson

Date:

9/12/2011