

Bridgman Road Singleton, Amendment to Singleton LEP 1996

Proposal Title : **Bridgman Road Singleton, Amendment to Singleton LEP 1996**

Proposal Summary : **To rezone approximately 38 hectares of land from 1(a) Rural an Environmental Living Zone to facilitate up to 32 rural residential allotments.**

PP Number : **PP_2012_SINGL_001_00**

Dop File No : **11/17396**

Proposal Details

Date Planning Proposal Received : **09-Jan-2012**

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 : **502 Bridgman Rd**

Suburb : **Wattle Ponds**

City : **Singleton**

Postcode :

Land Parcel : **Lot 22 DP 582824 and Lot 221 DP 823112**

DoP Planning Officer Contact Details

Contact Name : **Paul Maher**

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RPA Contact Details

Contact Name : **Gary Pearson**

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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**

MDP Number :		Date of Release :	
Area of Release (Ha) :	36.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	32	No. of Dwellings (where relevant) :	32
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 : **As discussed in the Singleton Rusty Lane planning proposal (PP_2011_SINGL_005_00), the Regional Team is aware of the length of time Singleton Council is taking to finalise planning proposals. It is the Regional Team's view that a more efficient and consistent approach will assist in correcting this trend.**

To that end, it is proposed to adopt with the Bridgman Road planning proposal, the Panel's Rusty Lane approach. It is therefore recommended that Council be required to prepare a project timetable to submit to the Regional Team for endorsement. The project timetable is to identify key tasks including any pre-exhibition consultation with key agencies, background studies and mapping.

The planning proposal is consistent with Singleton Land Use Strategy ('the Strategy') which was endorsed by the Director General in 2006. However, the proposed E4/ 7(b) zone differs from the Strategy which proposed 1(d) Rural Small Holdings Zone. This is because the environmental protection zone was preferred to protect an Endangered Ecological Community (EEC) identified on site and which was listed in the TSC Act after endorsement of the Strategy. The proposed yield and on-site effluent disposal is consistent with the Strategy.

It is yet to be determined that OEH will support the EEC being protected under an E4/ 7(b) zone. This will be determined through consultation with OEH. It is considered that the proposed Development Control Plan (DCP) and minimum lot size map is a sufficient mechanism to protect the 6 hectares of EEC in the north east corner of the site.

External Supporting Notes : **The Planning Proposal was submitted by Council on 25 August 2011. Additional information was required and requested on 9 September 2011. Following this request, Council officers sought to change the proposed zone and reported to Council for a new resolution on 5 December 2011. The amended planning proposal containing the additional information was received 9 January 2012.**

Adequacy Assessment

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

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

Comment : **The objectives adequately explain the intent of the planning proposal that is to rezone the site to 7(b) Environmental Living Zone under LEP 1996 or E4 Environmental Living Zone**

under Singleton SI LEP, prepare a DCP and an appropriate minimum lot size map.

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

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

Comment : **The explanation of provisions is considered adequate.**

The planning proposal may amend either Singleton LEP 1996 or the Singleton SI LEP. The LEP map intends to zone the land either 7(b) Environmental Living Zone under LEP 1996 or E4 Environmental Living Zone under the Singleton SI LEP.

A lot size map is required to identify the minimum lot size for this site, and is required for either the amendment to the Singleton LEP 1996 or the Singleton SI LEP. In either case, the minimum lot size map will be based on a draft Development Control Plan taking into account the site's environmental constraints and consultation with OEH. It is proposed that the minimum lot size map and DCP be submitted to the Regional Office prior to exhibition. The minimum lot sizes that are proposed will be between 8,000m2 and 1 hectare.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.5 Rural Lands

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.3 Home Occupations

4.4 Planning for Bushfire Protection

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

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

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

Although Council is of the opinion that the s117 Direction 1.2 Rural Zones is not relevant to the planning proposal, it applies to planning proposals that affect land within a rural zone. The planning proposal is inconsistent with Direction 1.2 as it is contrary to clause 4(b) by containing provisions that will increase the density on rural land. However, the inconsistency is justified by a strategy approved by the Director General. An excerpt of the Strategy has been uploaded onto the tracking system.

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

If No, explain :

2.1 Environment Protection Zones – it is yet to be concluded if the planning proposal is inconsistent with clause (4) as the provisions to protect and conserve environmentally sensitive areas (EEC) have not been determined. Consultation with OEH will determine if the proposed provisions will be adequate.

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

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Maps have been provided identifying the subject land.**

The current planning proposal does not contain a land zoning map. A map indicating the proposed and surrounding zoning has been revised from the previous planning proposal (attached).

The minimum lot size map and land zoning map is required to be provided to the Regional Office prior to exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The proposal does not fit the definition of 'low impact planning proposal' and therefore a 28 day exhibition period is considered appropriate.**

Council intend to exhibit the planning proposal and draft DCP concurrently to enable the public to understand how the site is likely to be developed if rezoned.

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 : **The planning proposal is adequate however it is yet to be determined if 7(b) Environmental Living or E4 Environmental Living will provide appropriate protection for the EEC. This will be determined through consultation with OEH. It is considered that a satisfactory outcome is possible through applying a suitable minimum lot size map across the site.**

Proposal Assessment

Principal LEP:

Due Date : **September 2012**

Comments in relation to Principal LEP : **Singleton LEP was submitted under previous section 64 of the EP&A Act 1979 in November 2011 and completion is estimated by mid 2012. It is intended that the planning proposal be exhibited to amend both the SI LEP and LEP 1996 so that the proposal remains valid regardless of the course it takes.**

Assessment Criteria

Need for planning proposal : **The planning proposal does not in itself provide justification for the proposed 32 rural residential lots but rather relies on the endorsed Strategy to justify the need for the proposed development. The Strategy proposes 670 rural residential lots around Singleton and Branxton. This equates to 70 lots per year over 10 years. The Strategy identifies 70 lots per annum as the demand for rural residential lots in Singleton LGA.**

The subject site is part of the Wattle Ponds North West (WPNW) candidate area identified in the Strategy which in total has the potential to deliver 134 lots. The proposed 32 lots therefore represent 23% of the total WPNW candidate area and 4% of the total rural residential yield for the Strategy. Council does not discuss how this proposal contributes to the annual demand of 70 lots per year in conjunction with the other 13 planning proposals currently being processed for Singleton.

The Strategy indicates that 35% of all new dwellings required for the LGA will be in rural areas. This equates to 70 lots per year. At the time of the Strategy (2006), Singleton was experiencing dwelling approvals between 170 - 230 dwellings per year. Depending on the accumulative supply of the other 13 planning proposals, there may be valid need for the proposed development based on the Strategy's projected demand for rural dwellings.

An LEP amendment is considered the most effective and timely method available to achieve the objectives and intended outcomes of the proposal.

Consistency with
strategic planning
framework :

Singleton is not included in the Lower Hunter Regional Strategy.

SINGLETON LAND USE STRATEGY 2008

The planning proposal is part of the Wattle Ponds North West candidate area in the Singleton Land Use Strategy which was endorsed by the Director General on 8 June 2008. The planning proposal is consistent with the Strategy in that it proposes to service the site with reticulated water but not reticulated sewer. The development is also consistent in that it proposes a minimum average lot size of 1 hectare with a minimum lot size of 8,000 m² where no sewer is provided.

The subject site is partly inconsistent with the Strategy's criteria used to identify potential rural residential sites. For example the Strategy states that environmentally sensitive land, bushfire prone land, areas of threatened species and areas containing aboriginal heritage should be excluded from rural residential development. The planning proposal does not avoid these matters. However, the EEC was identified after the Strategy was prepared. The bushfire risks can be addressed through consultation with RFS and destruction of the aboriginal artefacts may be able to be avoided.

Apart from the above, the subject site is consistent with the majority of the criteria listed in the Strategy. The site adjoins an existing rural residential neighbourhood, it has adequate road access, is a satisfactory distance from shops and is identified in an endorsed Strategy.

SECTION 117 DIRECTIONS

The proposal is, or maybe, inconsistent with the following s117 Directions:

1.2 Rural Zones

2.1 Environmental Protection

2.3 Heritage Conservation

4.4 Planning for Bushfire Protection

The planning proposal is inconsistent with Direction 1.2 as it is contrary to clause 4(b) by containing provisions that will increase the density on rural land. However, the inconsistency is justified by a strategy approved by the Director General.

It cannot be determined at this time if the planning proposal is inconsistent Direction 2.1 under clause (4) as the provisions to protect and conserve environmentally sensitive areas (EEC) have not been determined. Consultation with OEH will determine if the proposed provisions will be adequate.

The planning proposal is considered justifiably inconsistent with Direction 2.3 Heritage Zones. While the planning proposal does not contain specific provisions to protect the Aboriginal objects which have been identified on the site, the existing Singleton LEP 1996 and the draft SI LEP 2012 contain provisions to protect heritage items. The inconsistency with this direction is therefore considered justified.

Consultation is required with NSW Rural Fire Service before the proposal can be considered consistent with Direction 4.4.

Council has requested clarification on the consistency with Direction 3.3 Home Occupations. The planning proposal is not considered to be inconsistent, as home occupations or the equivalent definition within the Singleton LEP 1996, home activity, is permissible without consent within the E4 or 7(b) zone.

The Planning Proposal is consistent with all other Section 117 Directions.

STATE ENVIRONMENTAL PLANNING POLICIES

Only one SEPP is applicable to this planning proposal.

SEPP 55 Remediation of Land

Environmental social
economic impacts :

The Preliminary Contamination Assessment report found that although heavy metals were detected in the soil they did not appear above harmful levels. Therefore the consultant recommended that the site is suitable for the proposed development and that no further investigation is required. Therefore the proposal is considered consistent with SEPP 55 Remediation of Land.

The proposal is considered consistent with all other SEPPs.

The proposal will fulfil a demand for rural residential housing adjacent to an existing rural residential neighbourhood and within a 10 minute drive to the Singleton town centre. Therefore it is submitted that the proposed development may provide a social and economic benefit to the existing and future Singleton community.

Six (6) hectares of Spotted Gum Ironbark Forest, an Endangered Ecological Community (EEC), was identified on site through the 7 Part Test carried out as part of the Flora and Fauna Assessment 2011. The EEC is in a degraded state through ongoing agricultural use and the understorey is primarily removed offering no shelter or protection to native fauna. The 6 hectares is part of a larger patch of the EEC adjoining the area to the North East and within the WPNW candidate area (attached). It is therefore important to retain this patch of forest intact.

It is likely that some EEC trees and hollow bearing trees will be lost as result of assigning building envelopes and APZs. The Flora and Fauna Report proposes to replant the EEC trees along the intermittent watercourse that traverses the site. The ecologist recommends replanting and creating a buffer to the watercourse which result in no net loss of the EEC.

The EEC is mostly restricted to the North East corner of the site and it is reasonable in this instance to expect a suitable lot layout could be designed to contain the EEC in one lot with a suitable building envelope.

It is satisfactory for traffic impacts to be assessed at the DA stage. It is recommended that this study consider the accumulative impact of the whole of WPNW candidate area (134 lots) when assessing appropriate connections to the surrounding local roads.

The Aboriginal Cultural and Archaeological Assessment Report 2011 identified 5 camp sites and 2 areas of scattered artefacts on site. According to the Report, under the 2010 amendments to the National Parks & Wildlife Act 1974, a draft LEP in itself cannot harm an object. However, if the proposed development is likely to harm an object, an Aboriginal Heritage Impact Permit (AHIP) is to be obtained.

Without a final lot layout it is yet to be determined if harm to the identified objects will occur. The Report recommends that if it is determined through a masterplan process, that harm is to occur to the items then an AHIP should be obtained. This approach is considered satisfactory in addition to consultation with the Heritage Office on this matter.

Assessment Process

Proposal type :	Consistent	Community Consultation Period :	28 Days
Timeframe to make LEP :	24 Month	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	NSW Aboriginal Land Council Office of Environment and Heritage NSW Rural Fire Service Telstra		

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. :

Bushfire

If Other, provide reasons :

Biodiversity assessment as required by OEH

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 as the site is less than 50 hectares, rural residential density and on-site effluent disposal are proposed; therefore it is not considered likely that additional demands will be placed on state infrastructure.**

Documents

Document File Name	DocumentType Name	Is Public
2011 12 20 Planning Proposal.pdf	Proposal	Yes
2012 01 09 Cover letter.pdf	Proposal Covering Letter	Yes
2012 01 09 Minutes Council Meeting 05 Dec 2011.pdf	Determination Document	Yes
2012 01 09 Report Council Meeting 5 Dec 2011.pdf	Determination Document	Yes
Aerial photograph Bridgman Rd.pdf	Photograph	Yes
Singleton LUS Bridgmand Rd section.pdf	Study	Yes
Proposed and existing surrounding zones.pdf	Map	Yes
Geotechnic report.pdf	Study	Yes
Archeaology assessment.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.3 Home Occupations**
- 4.4 Planning for Bushfire Protection**
- 6.1 Approval and Referral Requirements**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Additional Information :

1. Council will need to undertake a number of additional studies to further demonstrate the form and content of the planning proposal can be achieved and provide this additional information as part of its planning proposal for exhibition purposes. The following matters need to be addressed;
 - Undertake studies to support the proposal including;
 - i. Bushfire Report
 - ii Biodiversity Assessment as required by OEH.
 - Prepare a Development Control Plan, minimum lot size map and draft zoning map and consult OEH and the Regional Office with these prior to exhibition.

2. 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 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 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Local Aboriginal Land Council (and any other indigenous group relevant to the subject site)
- Office of Environment and Heritage for biodiversity and cultural heritage matters.
- NSW Rural Fire Service
- Telstra
- Ausgrid

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.

4. 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).

5. The timeframe for completing the LEP is to be 18 months from the week following the date of the Gateway Determination.

6. Agree to inconsistencies with Directions 1.2 Rural Zones and 2.3 Heritage Conservation. Advise Council that the planning proposal is consistent with Direction 3.3 Home Occupations. NOTE: The additional 117 Directions identified by Council are considered consistent (not requiring agreement) or not relevant as discussed previously(Consistency with strategic planning framework).

7. Following completion of the required additional studies (and required pre-exhibition consultation with nominated agencies in accordance the relevant S117 Directions, Council is to undertake assessment of the revised form of the planning against relevant S117 Directions (2.1 Environment Protection Zones and 4.4 Planning for Bushfire Protection) and provide this revised assessment to the Regional Office for review and include as part of the planning proposal for exhibition purposes.

8. To ensure that the timeframe for the completion of the draft LEP is achieved, Council is to prepare and submit a project timetable to the Department's Regional Planning Team for endorsement within 1 month of receipt of this Gateway Determination. The timetable is to clearly identify the key tasks that are to be undertaken to progress the preparation of the LEP including any required pre-exhibition consultation with key agencies, background studies and mapping.

Supporting Reasons :

1. The proposal is consistent with the endorsed Singleton Land Use Strategy 2008.
2. A number of studies have been completed such as Flora and Fauna Assessment, Preliminary Geotechnical Investigation, Preliminary Contamination Assessment and Aboriginal Cultural and Archaeological Assessment Report in support of the planning proposal.
3. An 18 months timeframes is required to undertake additional studies, consult with agencies, prepare DCP, exhibit planning proposal and finalise the LEP. 18 month time period should enable the planning proposal to be completed. The project management requirement will ensure this timeframe is achievable.

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NOTE: The tracking system does not allow for the selection of 18 months.

Signature:



Printed Name:

Monica Gibson

Date:

19 Jan 2012