

Amendment for Standen Drive, Lower Beflord, Singleton LGA (Amendment No 37)

Proposal Title : **Amendment for Standen Drive, Lower Beflord, Singleton LGA (Amendment No 37)**

Proposal Summary : **Rezone approximately 130ha of land currently zoned 1 (a) Rural to Environmental Living. The majority of the site has been identified within the endorsed Singleton Land Use Strategy as a candidate area for rural residential development, with an average minimum lot size of 5ha, with an absolute minimum of 4ha. This proposal aims to increase the boundary of the candidate area by including an additional 12ha, and aims to decrease the minimum lot size to an average of 1ha, with an absolute minimum of 8000².**

PP Number : **PP_2010_SINGL_011_00** Dop File No : **09/04150**

Proposal Details

Date Proposal Lodged with DOP : **22-Nov-2010** Date Proposal Uploaded to Public Website : **26-Nov-2010**

Proposal Assessment

Is Public Hearing Required by PAC? **No**

Agencies Requested to Consult : **NSW Aboriginal Land Council
Hunter - Central Rivers Catchment
Management Authority
Office of Environment and Heritage
NSW Department of Primary Industries
- Agriculture
Transport for NSW - Roads and
Maritime Services**

Gateway Determination

Decision Date : **17-Dec-2010** Gateway Determination : **Passed with Conditions**
Due Date of LEP : **24-Feb-2013**

Implementation

Implementation Start Date : **24-Dec-2010** Exhibition Duration : **29**

Agency consultation consistent with recommendation : **Yes**

If No, comment : **Agency consultation was conducted in accordance with the Gateway conditions as listed below;**

- **Office of Environment and Heritage (DECCW) (OEH)**
- **Wanaruah Local Aboriginal Land Council**
- **Hunter-Central Rivers Catchment Management Authority**
- **Department of Industry and Investment (Agriculture)**
- **Roads and Maritime Services (RMS)**

Agency Objections : **No**

If Yes, comment : **NSW Office of Environment and heritage (OEH)**
• **No items or places of Aboriginal Cultural Heritage Significance were found on site.**

- OEH indicated it has no objection to the development if Council is to ensure that two identified lots are to be amalgamated and identified in the DCP.
- The two lots are amalgamated on the Concept Staging Plan and located on the common boundary of the adjoining National Park. The amalgamation of these lots ensures retention of vegetation and satisfactory connection between the Endangered Ecological Community and the centre of the subject site as required by OEH.

Wanaruah LALC

- LALC required a cultural heritage study as the site is in proximity to a known indigenous transit way.
- LALC expressed concern for intensifying development in this area because of potential cultural and environmental impacts.
- LALC asked to be involved in the archaeological survey process.
- An Indigenous Archaeological Due Diligence Assessment report (IADDA) was given to the LALC which invited the LALC to be involved in the survey process. No further submission was received from Wanaruah Land Council.

Hunter/Central-Rivers Catchment Management Authority

- CMA requires the development to be consistent with the HCRC Action Plan.
- CMA has no comment regarding the minimum lot size or development boundary
- Cautions that vegetation clearing may require consent under NV Act 2003 and that a Salinity Management Plan may be required in the development application.
- Council states that the proposed development is consistent with the Action Plan.
- A geotechnical report indicates that development will not generate adverse salinity impacts.
- The DCP will ensure that each lot has sufficient land for onsite effluent disposal.

Department of Industry and Investment (Agriculture)

- No submission was received.

Roads and Maritime Services

- Stipulated that there is to be no direct access to Hunter Expressway or New England Highway. The development complies as the access will be via Standen Drive.
- The development is required to provide pedestrian and cycle connections to public transport – in accordance with S117 Direction 3.4. Direction 3.4 does not apply to the land as the Planning Proposal does not seek to zone urban land but rather seeks to zone rural residential land.
- The DCP will contain provisions to minimise impacts of road traffic noise on future development.

Documentation consistent with Gateway :

If No, comment :

Yes

Authority to proceed under the Gateway was issued by the Director General's delegate on 17 December 2010 to amend Singleton LEP 1996.

Due to delays in the preparation of studies and a Development Control Plan a revised Gateway was issued on 11 December 2011 which extended it to 24 August 2012.

Further delays in meeting the timeframe arose due to agency concerns regarding the draft DCP in particular the number and the size of the proposed lots. It was then extended on 23 July 2012 for another 6 months which will expire on 24 February 2013.

The planning proposal seeks to rezone 130 hectares of rural land to 7(b)

Environmental Living to allow approximately 125 lots in accordance with the Singleton Land Use Strategy and Sedgefield Structure Plan 2009.

It rezones the land and imposes a minimum lot size of 8,000 square metres with a 1 hectare minimum average lot size.

A DCP is necessary for the Planning Proposal and the requirements of the DCP are to be inserted into Singleton LEP 1996 under Part 2 General restrictions on development of land clause 14 G.

PARLIAMENTARY COUNSEL OPINION

Legal drafting of the instrument was requested on 4 December 2012 and the PC Opinion was issued on 10 April 2013. There has been no change to the draft instrument since the PC Opinion was issued.

Council was consulted on the draft LEP pursuant to s59(1) of the EP&A Act on 10 April 2013. Council responded on 15 April 2013 that it was satisfied with the drafting of the instrument.

PUBLIC PARTICIPATION

The Planning Proposal was exhibited for a total of 28 days in accordance with the Gateway Determination from 28 September to 26 October 2012.

CONSISTENCY WITH STATE POLICIES AND S.117 DIRECTIONS

The Planning Proposal is consistent with applicable State Environmental Planning Policies and Section 117 Directions.

SEPP 55 Remediation of Land – it is considered that the RPA has considered whether the land is contaminated as OEHL indicated it was satisfied with the Contamination Report provided.

Section 117 Directions:

The Director General agreed with the inconsistency with s117 Directions 1.2 Rural Zones through the Gateway issued on 17 December 2010, however there are other consistencies that require the Director General's agreement.

SEPP (Rural Lands) 2008 – Lot 92 DP 1138554 was created under SEPP (Rural Lands) 2008 and as such has a restriction on the s88B Instrument that states that a dwelling cannot be erected on the lot. Therefore this restriction will apply to any future lots that result of subdivision of this parent lot.

Council is therefore required to remove the restriction over the s88B instrument at the time when it receives the Development Application to subdivide the land. It is recommended that Council be informed of this responsibility in the letter to Council making the Plan.

It is considered that the Director General is not required to remove the restriction over the lot and that the removal of the restriction should not therefore form part of the instrument.

Direction 1.5 Rural Lands – the Planning Proposal is inconsistent with Direction 1.5 as it seeks to amend the minimum lot size over the land. It is considered that the inconsistency is justified as it is identified in a local strategy endorsed by the Director General. Therefore it is requested that the Director General indicate that

the inconsistency with Direction 1.5 is justified.

Direction 2.3 Heritage Conservation – the Planning Proposal is consistent with Direction 2.3 as it contains provisions to protect any items should they be found through further studies over the site.

Direction 6.3 Site Specific Provisions – the Planning Proposal is inconsistent with Direction 6.3 as it requires a site specific clause over the subject site to be inserted into Singleton LEP 1996. It is considered that the inconsistency is justified in this instance as it is of minor significance because the requirement for a DCP over the site is specified in the endorsed local strategy. It requested that the Director General indicate agreement to the inconsistency.

LEP Assessment

Date Received from RPA : **04-Dec-2012**

LEP Determination

DatePublishNotification

Date sent to Parliamentary Council to Draft LEP : **07-Jan-2013**

Determination Date : **29-Apr-2013**

Determination Decision : **Approved**

Notification Date : **03-May-2013**