

Dalwood Road Branxton, Amendment to Singleton LEP 1996

Proposal Title : **Dalwood Road Branxton, Amendment to Singleton LEP 1996**

Proposal Summary : **To rezone land currently zoned Rural 1(a) Rural Zone to residential, rural residential and conservation zones at two locations off Dalwood Load in the locality of Leconfield, near the village of Branxton. Site A comprises 30 hectares and has the potential to accommodate 190 lots, Site B is 16 hectares and has the potential to accommodate 100 lots.**

PP Number : **PP_2011_SINGL_006_00**

Dop File No : **11/21827**

Proposal Details

Date Planning : **10-Nov-2011**

LGA covered : **Singleton**

Proposal Received :

Region : **Hunter**

RPA : **Singleton Shire Council**

State Electorate : **UPPER HUNTER**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Dalwood Road**

Suburb : **Leconfield**

City : **Branxton**

Postcode : **2335**

Land Parcel : **Lot 4 DP533318, Lots 31-33 DP571275, Lot 6 DP827226 and Lot 2 DP237057**

DoP Planning Officer Contact Details

Contact Name : **Katrine O'Flaherty**

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RPA Contact Details

Contact Name : **Ken Horner**

Contact Number : **0265787331**

Contact Email : **khorne@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 : **N/A**

Consistent with Strategy : **N/A**

Regional Strategy :

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MDP Number :		Date of Release :	
Area of Release (Ha) :	46.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	290	No. of Dwellings (where relevant) :	290
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 30 September 2011 however more information regarding the planning processes at Singleton and the status of the Singleton Land Use Strategy was required and was obtained at a meeting held 10 November 2011. Additional information was also provided 5 December 2011.

Two planning proposal were submitted to Council for adjoining sites. Council have indicated that they do not wish the proposals to be combined because of the potential for delays in one to hold up the other. However, it is considered that they are appropriately considered together because of the close proximity of the sites, their small size and similarity of issues. It is also considered that both proposals should be re-submitted and they may be separated at that stage.

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 for site A, to facilitate residential and rural residential development with an appropriate minimum lot size and protect environmentally sensitive areas with a conservation zone, and for site B to facilitate residential development with an appropriate minimum lot size.**

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

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

Comment : **The explanation of provisions indicates that the planning proposal for both sites 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. The explanation of provisions does not provide an explanation on the distribution of zones at Site A and appears to seek to include a new Standard Instrument zone into the 1996 LEP for Site B. No draft LEP maps, either zoning or lot size maps have been provided for either site. The explanation of provisions is not considered adequate because of these issues.**

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

1.5 Rural Lands

* May need the Director General's agreement

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

6.1 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?

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.

Site A contains land that may be environmentally sensitive. Further information is required before consideration of the proposal's consistency with direction 2.1 Environmental Protection can be given.

Further information about consistency with 4.3 Flood Prone Land is also required.

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

If No, explain :

Insufficient information has been provided to justify the inconsistency with the endorsed Strategy which does not identify these sites and indicates that Council should undertake a review, together with Cessnock Council and the Department, on the need for further areas for urban expansion adjacent to the Branxton urban area prior to rezoning any additional land for rural residential purpose.

Insufficient information has been provided to assess consistency with s117 directions. In particular the site's are not within the endorsed Strategy and therefore require additional justification relating to several directions.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **No zoning or lot size maps have been provided and are required before the proposal can proceed through the gateway.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : **Council have not proposed any community consultation. When the two sites are combined the proposal is considered a large rezoning and consultation for a period of 28 days is considered necessary.**

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 : **The Planning Proposal is inadequate because;**

- **it does not provide the necessary studies to support the proposal, including a strategic assessment of housing opportunities in the Branxton area (including the Cessnock LGA)**
- **it does not identify the zones to be applied at Site A nor their distribution and appears to introduce a new standard instrument zone at site B.**
- **there is insufficient infrastructure servicing information.**
- **there is no evidence that this land can produce residential development in the short term to justify it proceeding out of strategy.**
- **a zoning and lot size map is not provided for exhibition.**
- **insufficient information is provided to enable consistency with relevant s117 directions to be considered**
- **insufficient information is provided to enable consistency with the endorsed Strategy.**

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 : **The planning proposal is not an outcome of the endorsed Singleton Land Use Plan which does not identify the sites for future residential development.**

The proposal indicates that additional residential opportunities are required due to the delays to the development of the Huntlee site. The NSW Court of Appeal decision released on 8 December 2011 (Huntlee Pty Ltd v Sweetwater Action Group Inc; Minister for Planning and Infrastructure v Sweetwater Action Group Inc [2011] NSWCA 378), has addressed this issue and the rezoning of the Huntlee site through the SEPP Major Projects has been upheld.

The proposal (Site A) contains a supply and demand analysis that indicates demand will outstrip supply within the Branxton area within 12 months. This analysis does not take into consideration the rezoning of land in close proximity to Branxton including Huntlee (upheld December 2011) for 7,200 dwellings, nor the rezoning of land at Anvil Creek in 2008 for more than 1,300 dwellings. The interaction between the residential market and the rural –residential market from a demand and supply perspective is also unclear.

Consistency with strategic planning framework :

The proponents indicate that the proposal is consistent with the Draft Lower Hunter Regional Strategy as it was exhibited in 2005, because the draft Strategy included a radius around the Branxton train station as an area for potential urban development. This broad area was subsequently amended after exhibition to identify development at Huntlee and Anvil Creek only. This Strategy does not cover the Singleton LGA and therefore consistency is not relevant. The Regional Strategy is currently under review and the issue of providing a strategic overview for development in this area, rather than restricting it to LGA boundaries, has arisen in consultation.

The proposals are not consistent with the endorsed Singleton Land Use Strategy which does not identify these sites. The Strategy also indicates that Council should undertake a review, together with Cessnock Council and the Department, on the need for further areas for urban expansion adjacent to the Branxton urban area prior to rezoning any additional land for rural residential purpose. This review has not been undertaken but its development is seen as crucial to provide a strategic approach to additional development in this area.

In addition to above, a strategic assessment is proposed as the Department and Council have been approached by a number of land owners wishing to rezone land outside of the endorsed strategy. In order to be consistent and equitable, additional land for development should be selected through a review of the strategy with justification from a land use monitor.

Environmental social economic impacts :

No net community benefit test has been undertaken. The proponent's have indicated that the proposal will have a net community benefit due to the additional housing opportunities that it will provide.

Infrastructure considerations for the proposal include consideration of intersection upgrades with the New England Highway and financing of water and sewer upgrades.

Environmental impacts have not yet been assessed.

Assessment Process

Proposal type :	Inconsistent	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 Department of Transport - Roadas and Traffic Authority Adjoining LGAs		

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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 currently inadequate.**

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

If Yes, reasons : **The Planning Proposal should be resubmitted because;**

- it does not provide the necessary studies to support the proposal, including a strategic assessment of housing opportunities in the Branxton area (including the Cessnock LGA)
- it does not identify the zones to be applied at Site A nor their distribution and appears to introduce a new standard instrument zone at site B.
- there is no evidence that this land can produce residential development in the short term to justify it proceeding out of strategy.
- a zoning and lot size map is not provided for exhibition.
- insufficient information is provided to enable consistency with relevant s117 directions to be considered
- insufficient information is provided to enable consistency with the endorsed Strategy.

Identify any additional studies, if required. :

Flora

Fauna

Bushfire

Other - provide details below

If Other, provide reasons :

Investigation into the ability to service these sites, including the need for upgrades to water, sewer and access to the New England Highway is required

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 sites can be considered minor infill however clarification regarding the need for upgrades to the intersection with the New England Highway is required.**

Documents

Document File Name	DocumentType Name	Is Public
11 39843 la6 2010 - planning proposal - application to amend r.pdf	Proposal	Yes
11 39843 la4 2010 - planning proposal - application to amend r.pdf	Proposal	Yes
SINGLETON COUNCIL 28_09_2011 REQUEST FOR GATEWAY DETERMINATION DALWOOD ROAD LECONFIELD ATTACHMENT PLANNING PROPOSAL PART.pdf	Proposal Covering Letter	Yes
Singleton Council_30-09-2011 00_00_00_Request for Gateway Determination Dalwood Road Leconfield_.pdf	Proposal Covering Letter	Yes
Singleton Council_03-11-2011 00_00_00_Planning Proposals Gateway Extension_DD G PMUR endorsed 11.12.2011.pdf	LEP Approval	No

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**
1.5 Rural Lands

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
6.1 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.
- provided infrastructure servicing information.
- undertaken a strategic assessment of the Branxton locality in partnership with Cessnock Council, to provide context of residential opportunities.
- considered the application of an environmental zoning to portions of the site.
- obtain evidence that this land can produce residential development in the short term
- provided a zoning and lot size map for exhibition.
- considered consistency with relevant s117 directions
- provided additional justification regarding the inconsistency with the endorsed Strategy.

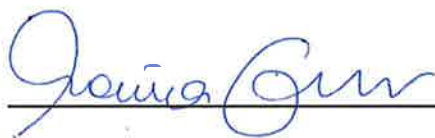
It is also recommended that Council establish a transparent and consistent approach to considering sites not included within the endorsed Strategy.

Supporting Reasons : **The planning proposal should not proceed because it is considered inadequate. Council should be asked to undertake the additional work required before resubmitting the proposal to the gateway for determination.**

The sites contained within the planning proposal are considered to have some development potential, given their proximity to existing development. However, the sites are not contained within any current strategic work, nor are they identified as required by the land use monitor. Allowing the planning proposal to proceed may weaken the application of the endorsed Singleton Land Use Strategy.

Consideration of the development potential of land surrounding these proposals should also be undertaken and include land in the adjoining LGA, so as to provide a holistic picture of housing opportunities at Branxton.

Signature:



Printed Name:

Monica Gibson

Date:

9/12/2011

