

Planning and Environment

Report No. PE46/2020

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SUBJECT: **18 2020 4 - PLANNING PROPOSAL TO REZONE PART OF LOT 10 DP 1085485, KNOWN AS 261 AVERYS LANE BUCHANAN**

RESPONSIBLE OFFICER: **Acting Strategic Planning Manager - Iain Rush**

SUMMARY

The purpose of this report is to seek Council's endorsement to forward a Planning Proposal, which seeks to rezone part of Lot 10 DP 1085485, from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the minimum lot size, to the NSW Department of Planning, Industry and Environment (DPIE) for Gateway determination.

Application Number	18/2020/4
Proposal	Rezone part of Lot 10 DP 1085485 from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the minimum lot size map from 40 Ha to 450m ² .
Property Description	Lot 10 DP 1085485
Property Address	261 Averys Lane, Buchanan NSW 2323
Zone (Current)	RU2 Rural Landscape E2 Environmental Conservation
Zone (Proposed)	R2 Low Density Residential RU2 Rural Landscape E2 Environmental Conservation
Owner	Mrs C D Shearman
Proponent	Complete Planning Solutions

RECOMMENDATION

1. That Council requests a Gateway determination for the Planning Proposal to rezone part of Lot 10 DP 1085485, from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the minimum lot size, to the NSW Department of Planning, Industry and Environment pursuant to the *Environmental Planning and Assessment Act 1979*.
2. That Council requests authorisation under Section 3.31 of the *Environmental Planning and Assessment Act 1979* to act as the local plan-making authority to make the Local Environmental Plan.
3. That Council undertakes consultation with public authorities and the community as determined by the Gateway determination.
4. That Council receives a report back on the Planning Proposal if unresolved written objections are received during consultation with the community, otherwise, forwards the Planning Proposal to the Department of Planning, Industry and Environment requesting that the Plan be made.

BACKGROUND

On 30 September 2020, Council received a Planning Proposal to rezone part of Lot 10 DP 1085485, known as 261 Averys Lane Buchanan, from RU2 Rural Landscape Zone to R2 Low Density Residential Zone and amend the associated minimum lot size map from 40 hectares to 450m². The proposal is considered to be consistent with the objectives of the Hunter Regional Plan 2036 (HRP 2036), Greater Newcastle Metropolitan Plan (GNMP 2036) and the Cessnock Local Strategic Planning Statement (the LSPS), as the subject land is proximate to the Kurri Kurri to Maitland urban 'growth corridor, and immediately adjacent to the Averys Rise Urban Release Area (URA)'.

Initially, the proponent is seeking to excise the proposed residential zoned portion of land from the balance, zoned RU2 Rural Landscape Zone and E2 Environmental Conservation Zone. This will enable the potential future subdivision of the residential zoned land consistent with regional and local strategies applicable to the area.

The portion of Lot 10 DP 1085485 that is subject to the planning proposal is identified in **Figure 1**, and is outlined in orange.



Figure 1: Approximate Land Application Area of Planning Proposal

REPORT/PROPOSAL

The objective of the Planning Proposal is to amend the *Cessnock Local Environmental Plan 2011* (the LEP) to achieve the following outcome:

- Rezone part of Lot 10 DP 1085485, known as 261 Averys Lane Buchanan, from RU2 Rural Landscape to R2 Low Density Residential and amend the associated minimum lot size map from 40 Ha to 450m².

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The LEP controls prevent the subdivision of Lot 10 DP 1085485 to less than 40Ha. Therefore, to allow for urban housing on part of Lot 10, an amendment to the LEP is required.

The Planning Proposal is supported on the basis that the subject allotment is immediately adjacent to land zoned R2 Low Density Residential to the north and west and is proximate to the Bellbird to Maitland urban 'growth area', identified in the HRP 2036, GNMP 2036 and LSPS. Land to the north of the site has approval for a 170 lot residential subdivision and is identified as an Urban Release Area in the LEP (forming part of Averys Rise URA). The extension of the R2 Low Density Residential Zone to part of the subject allotment represents a logical extension to the residential component of the Buchanan locality. Furthermore, future development of the existing residential zoned land to the north and west of the site will provide infrastructure that could be extended to the subject land with minimal cost.

OPTIONS

Council has the following options:

1. Endorse the recommendation of this report and forward the Planning Proposal to the Department of Planning, Industry and Environment for Gateway determination. *This is the preferred option.*
2. Not endorse the recommendations of this report. This would mean that the Planning Proposal will not progress.

CONSULTATION

Formal consultation regarding the Planning Proposal will be carried out in accordance with Gateway determination, should Council resolve to endorse the recommendation of this report.

STRATEGIC LINKS

a. Delivery Program

The Draft Planning Proposal generally aligns with the themes and objectives of the Cessnock 2027 Community Strategic Plan (CSP).

b. Other Plans

Hunter Regional Plan 2036

The HRP 2036 provides the overarching strategic framework to guide development, investment and planning within the Hunter Region to 2036. This Planning Proposal is consistent with the objectives of the HRP 2036 in that it will deliver greater housing choice within an identified urban 'growth area'.

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Greater Newcastle Metropolitan Plan 2036

The subject site is located within the application area of the GNMP 2036. The GNMP 2036 sets out strategies and actions that will drive sustainable growth across Cessnock City, Lake Macquarie City, Maitland City, Newcastle City and Port Stephens communities, which together make up Greater Newcastle. The Planning Proposal is consistent with the desired outcomes of the GNMP in that it delivers housing close to jobs and services.

Cessnock Local Strategic Planning Statement 2036

The LSPS sets out the 20-year vision for land use in the local area. It establishes the special character and values of the LGA that are to be preserved and how change will be managed into the future.

It is considered that the proposed rezoning will have minimal impact on the area as the site adjoins the Averys Rise URA which is zoned R2 Low Density Residential and the portion of the site to be rezoned already has a dwelling constructed on it. The dwelling was approved under development consent '8/2005/955/1 - Replacement of Existing Dwelling (Previously Approved Managers Residence to be Demolished to Allow for F3 Freeway Extension)' and under the provisions of the *Cessnock Local Environmental Plan 1989*.

The Planning Proposal is generally consistent with the provisions of the LSPS. The Planning Priorities of the LSPS that are relevant to the proposal type and location are:

- Planning Priority 5: Infrastructure and services meet the needs of our community and are appropriately funded.

The relevant Planning Principles are:

4. Rezoning land for urban purposes will be prioritised in areas where existing infrastructure capacity exists.
- Planning Priority 7: Urban development is encouraged in areas with existing infrastructure.

The relevant Planning Principles are:

2. Our urban areas are compact and well serviced.
 3. Residential development is supported in unconstrained areas of the Cessnock to Maitland Growth Corridor.
 4. New growth is integrated with the existing residential areas and adequately serviced.
- Planning Priority 22: Our rural landscape is retained and enhanced

The relevant Planning Principles are:

2. The rural character and amenity of the land is preserved and enhanced.
4. Dwellings located in rural areas and areas of high environmental value are sited and designed to minimise the visual impact.

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6. The interface between urban areas and rural land or environmental land is managed to minimise visual impacts.

IMPLICATIONS

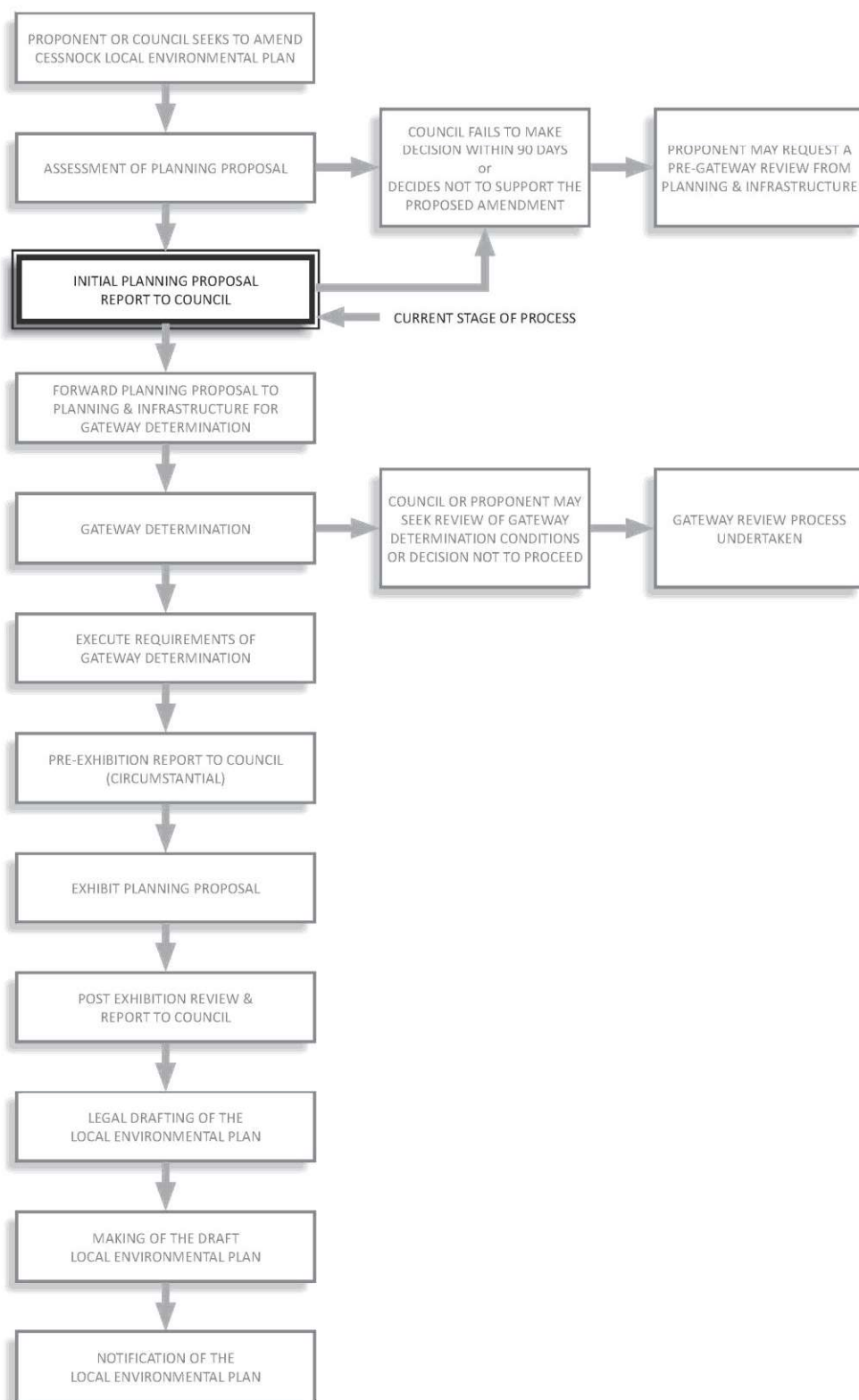
a. Policy and Procedural Implications

The status of the Planning Proposal is identified in the following process flow chart.

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PLAN MAKING PROCESS - LOCAL ENVIRONMENTAL PLAN



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b. Financial Implications

Planning Proposals require payment of fees as outlined in Council's Fees and Charges 2020/21. The Planning Proposal is considered Category B in accordance with the Fees and Charges. The next phase will be invoiced should Council endorse the Planning Proposal.

There are no financial implications to Council should it not proceed with the Planning Proposal.

c. Legislative Implications

The Planning Proposal has been prepared in accordance with the provisions of the *Environmental Planning and Assessment Act 1979* and the Department of Planning Industry and Environment's Guide to Preparing a Planning Proposal.

d. Risk Implications

DPIE has provided verbal advice that approval of the proposal will result in the allotment being designated as an Urban Release Area (URA) under Part 6 of the LEP. In the instance that the proponent seeks consent to then subdivide the residential portion of the allotment from the remainder of the allotment, the designation as a URA may require the payment of a Special Infrastructure Contributions levy and the preparation of a site specific DCP. This is likely to delay the land owner's intention to subdivide the land.

In addition, the planning proposal, if endorsed, will result in the creation of a split zoned portion of land. Should the proponent seek to subdivide the parent allotment, the provisions of Clause 4.1B of the LEP will apply. At subdivision, this clause requires one of the final allotments to contain:

- at least 450m² of the proposed residential land; and
- the balance of the land, zoned RU2 Rural Landscape and E2 Environmental Conservation.

The proponent has been made aware of these additional affectations that will apply at subdivision stage.

e. Environmental Implications

Bushfire

The majority of the site is identified as bushfire prone, referral to the NSW Rural Fire Service is likely to be a condition of the Gateway determination, should it be issued by DPIE.

Flooding

Part of Lot 10 DP 1085485 is significantly flood prone. However, the area of the proposed rezoning is outside the flood affected portion of the site. Referral to the Biodiversity and Conservation Division of DPIE may be a condition of the Gateway determination, should it be issued by DPIE.

Acid Sulfate Soils

A portion of the site is mapped as Class 4 Acid Sulfate Soils. The area of the proposed rezoning is outside the portion of the site affected by Acid Sulfate Soils.

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Energy Resource Audit

The site is identified as being within a 'medium confidence' potential energy resource area, subsequent referral may be required by DPIE should Gateway be issued.

Aboriginal Heritage Sensitivity

There are no aboriginal sites or places recorded on the subject property.

Biodiversity Values Map

The site is identified on the biodiversity values map as land with high biodiversity value that is sensitive to impacts from development and clearing. This triggers the requirement for determining whether the Biodiversity Offset Scheme (BOS) is applied to the proposed development.

A Biodiversity Assessment Report has been submitted with the Planning Proposal which found that there is no significant impact on any threatened species, Endangered Ecological Community, critical habitat or endangered populations by the proposed works on any NSW or nationally listed species under the *Environment Protection and Biodiversity Conservation Act 1999*, the *Biodiversity Conservation Act 2016* or *State Environmental Planning Policy (Koala Habitat Protection) 2019*.

However, given the significance of biodiversity within the site, subsequent referral may be required by DPIE should Gateway be issued.

f. Other Implications

The proposal will allow the landowners to subdivide the property, subject to the requirements of clause 4.1B and (likely) Part 6 of the LEP. Further intensification of the proposed R2 Low Density Residential zoned portion of the site would be possible and would need to be compliant with the 450m² minimum lot size proposed by this planning proposal. The maximum yield of that allotment would be 18-21 allotments.

CONCLUSION

The Planning Proposal, being a request to rezone a portion of the site from RU2 Rural Landscape to R2 Low Density Residential and amendment to the minimum lot size map from 40 Ha to 450m², is considered to have merit. For this reason, it is recommended that Council submit the Planning Proposal to DPIE for a Gateway determination.

ENCLOSURES

- 1 Planning Proposal to Rezone Part of Lot 10 DP 1085485 from RU2 Rural Landscape Zone to R2 Low Density Residential - Zone - Provided Under Separate Cover

Placeholder for Enclosure 1

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Planning Proposal to Rezone Part of Lot 10 DP
1085485 from RU2 Rural Landscape Zone to R2 Low
Density Residential - Zone - Provided Under Separate
Cover