

**Amendment to Clause 6.4 Land in Zone R4 High
Density Residential**

September 2015

CONTENTS

Summary of Proposal	1
Background.....	1
Site.....	1
Part 1 - Objectives or Intended Outcomes	2
Part 2 - Explanation of Provisions	2
Part 3 – Justification	3
Section A - Need for the planning proposal	3
Section B - Relationship to strategic planning framework	3
Section C - Environmental, social, and economic impact	8
Section D - State and Commonwealth interests	9
Part 4 – Mapping.....	10
Part 5 – Community Consultation	10
Part 6 – Project Timeline	10

Amendment to Clause 6.4 Land in Zone R4

Summary of Proposal

Proposal	Amendment to Clause 6.4 of the Newcastle LEP 2012
Applicant Details	The City of Newcastle

Background

The Newcastle LEP 2012 zoned a number of renewal corridors in the Newcastle LGA R4 High Density Residential. Many of these corridors formerly had a commercial zone and continue to operate commercial uses.

Clause 6.4 Land in Zone R4 High Density Residential was introduced in the Newcastle LEP 2012 to encourage high density residential development in these areas. The clause requires at least 75% of the gross floor area of the building to constitute residential development. Non-residential uses such as tourist and visitor accommodation, educational establishments, child care and health services facilities are restricted to only 25% of gross floor area. Council are unable to grant development consent to these types of development unless the proposal includes 75% of the Gross Floor Area (GFA) to be used as residential accommodation.

The R4 zoning, combined with the operation of Clause 6.4 has discouraged refurbishment of these sites to provide for new development. The clause specifically restricts future development of sites with existing commercial buildings on them that were previously zoned commercial. Many are not suited to be converted to residential housing. A number of uses currently operate on the basis of existing use rights as the use is prohibited in the zone. It is important that existing commercial buildings that are not currently part of a mixed use development are not disadvantaged by the change in zone and introduction of the new clause. The impacts of this clause have been highlighted by industry representation following the lodgement of DAs for change of use and redevelopment of former commercial zoned sites.

The Newcastle Urban Renewal Strategy proposed to rectify this issue by including an amendment to Clause 6.4(3) of the Newcastle LEP which was intended to restrict the applicability of this clause only to Development Applications which propose "the erection of a building". However, following exhibition of the NURS, the amendment to the clause was not gazetted. Instead, The Department of Planning and Environment excluded the implementation of the clause from the CBD through the imposition of Clause 6.4(4).

The purpose of this Planning Proposal is to make minor amendments to the existing Clause 6.4 to achieve better development outcomes.

Site

The proposal applies all land zoned R4 High Density Residential in the Newcastle Local Government Area which are located outside the city centre. This includes renewal corridors in the following areas:

- Hamilton, land adjacent to Tudor Street and Belford Street
- Adamstown, land alongside Glebe Road
- Broadmeadow, land adjacent to Brunner Road
- Mayfield, land adjacent to Hanbury Street and areas around the Mayfield commercial centre.

Part 1 - Objectives or Intended Outcomes

The objective of the Planning Proposal is to enable greater development flexibility in areas zoned R4 High Density Residential.

The intent of the Planning Proposal is to amend Clause 6.4 of the Newcastle LEP so as to restrict the applicability of this clause only to Development Applications which propose "the erection of a building for the purposes of commercial premises" and not to change of use application or redevelopment / refurbishment applications.

Part 2 - Explanation of Provisions

The intended outcomes can be achieved by amending clause 6.4 Land in Zone R4 High Density Residential to read as follows:

- (1) *The objective of this clause is to achieve a reasonable proportion of residential accommodation within new mixed use development in Zone R4 High Density Residential.*
- (2) *This clause applies to land within Zone R4 High Density Residential, where development comprises:*
 - (a) *the erection of a building (excluding alterations and additions to an existing building) for business premises, food and drink premises or office premises; or*
 - (b) *a change of use to enable business premises, food and drink premises or office premises.*
- (3) *This clause does not apply to land in Newcastle City Centre.*
- (4) *Despite any other provision of this Plan, the consent authority must not grant consent unless it is satisfied that the development includes residential accommodation and the residential accommodation comprises at least 75% of the gross floor area of the building.*

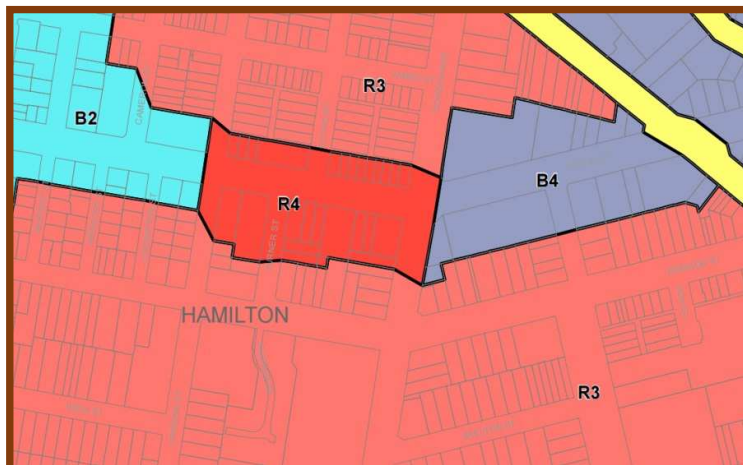


Figure 1: Example of an "R4 renewal corridor" on Tudor Street, Hamilton.

Part 3 – Justification

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The Planning Proposal is not a result of a strategic planning study or report. The planning proposal has been initiated by council to enable flexibility in areas zoned R4 High Density Residential.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The amendment to clause 6.4 Land in R4 High Density Residential is considered to be the best means of achieving the objectives. The following alternative options have been considered, however are not expected to have the same intended outcomes:

- delete clause 6.4
- reduce the 75% threshold in the clause
- rezone all the renewal corridors to another zone (such as a commercial zone)
- exempt existing development and single storey buildings from the operation of the clause, and
- introduce a provision to provide short term interim development outcomes, prior to the longer term realization of high density housing and enable residential development and FSR credits to be provided, instead of restricting the zone to the current extent.

The benefits of the amended clause are that it allows for a change of use of existing premises without the requirement to have to provide residential accommodation. It also enables some individual new developments such as child care centres and health services facilities, that are considered appropriate within these areas, to occur, but would generally not be compatible as a mixed use development comprising residential accommodation. Importantly the amended clause still ensures that new larger scale commercial premises are appropriately located 'within centre' to support existing commercial areas while promoting higher density housing within the R4 zone itself.

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy (2006)

The Lower Hunter Regional Strategy applies to the land. The aim of this Strategy is to ensure that adequate land is available to accommodate the projected housing and employment growth in the Hunter Region over the next 25 years. The amendment to clause 6.4 will contribute to the generation of a small number of employment opportunities and is therefore considered consistent with this aim. The amendment also ensures that more intensive commercial premises are appropriately located with existing commercial centres to support their viability and growth.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Newcastle 2030 Community Strategic Plan

Council adopted the Newcastle 2030 Community Strategic Plan in February 2011, as revised in 2013. The planning proposal primarily aligns to the strategic direction 'Open and Collaborative Leadership' identified within the Newcastle 2030 Community Strategic Plan.

Compliance with the LEP amendment process, in particular section 57 – community consultation of the *Environmental Planning and Assessment (EP&A) Act 1979*, will assist in achieving the strategic objective; "Consider decision-making based on collaborative, transparent and accountable leadership" and the identified strategy 7.2b, which states: "Provide opportunities for genuine and representative community engagement in local decision making".

Newcastle Urban Landuse Strategy 2012 (NULS) Newcastle Urban renewal Strategy 2012 (NURS)

The Newcastle Urban Renewal Strategy (NURS) proposed to address this issue by including an amendment to Clause 6.4 of the Newcastle LEP which would have rectified this situation. Following exhibition of the NURS, this clause was not instated by the Department.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Consistency (of the Planning Proposal) with State Environmental Planning Policies is outlined in the table below.

Table 1 - Consideration of State Environmental Planning Policies

Name of SEPP	Applicable	Consistency
SEPP No 1 (Development Standards)	No	N/A
SEPP No 14 (Coastal Wetlands)	No	N/A
SEPP No 15 (Rural Landsharing Communities)	No	N/A
SEPP No 19 (Bushland in Urban Areas)	No	N/A
SEPP No 21 (Caravan Parks)	No	N/A
SEPP No 26 (Littoral Rainforests)	No	N/A
SEPP No 29 (Western Sydney Recreation Area)	No	N/A
SEPP No 30 (Intensive Agriculture)	No	N/A
SEPP No 32 (Urban Consolidation)	No	N/A
SEPP No 33 (Hazardous and Offensive Development)	No	N/A
SEPP No 36 (Manufactured Home Estates)	No	N/A
SEPP No 39 (Spit Island Bird Habitat)	No	N/A
SEPP No 44 (Koala Habitat Protection)	Yes	The land in renewal corridors is all urban and is unlikely to consist of areas of koala habitat.

Name of SEPP	Applicable	Consistency
SEPP No 47 (Moore Park Showground)	No	N/A
SEPP No 50 (Canal Estate Development)	No	N/A
SEPP No 52 (Farm Dams and Other Works in Land and Water Management Plan Areas)	No	N/A
SEPP No 55 (Remediation of Land)	No	N/A
SEPP No 59 (Central Western Sydney Economic and Employment Area)	No	N/A
SEPP No 62 (Sustainable Aquaculture)	No	N/A
SEPP No 64 (Advertising and Signage)	Yes	N/A
SEPP No 65 (Design Quality of Residential Flat Development)	No	N/A
SEPP No 70 (Affordable Housing - Revised Schemes)	No	N/A
SEPP No 71 (Coastal Protection)	No	N/A
SEPP (Affordable Rental Housing) 2009	No	N/A
SEPP (Building Sustainability Index: BASIX) 2004	No	N/A
SEPP (Exempt and Complying Development Codes) 2008	No	N/A
SEPP (Housing for Seniors or People with a Disability) 2004	No	N/A
SEPP (Infrastructure) 2007	No	N/A
SEPP (Major Development) 2005	No	N/A
SEPP (Mining, Petroleum Production and Extractive Industries) 2007	No	N/A
SEPP (Miscellaneous Consent Provisions) 2007	No	N/A
SEPP (Rural Lands) 2008	No	N/A
SEPP (State and Regional Development) 2006	No	
SEPP (Three Ports) 2013	No	N/A
SEPP (Urban Renewal) 2010	Yes	Yes. The planning proposal intends to give effect to the initiatives of the Newcastle Urban Renewal Strategy 2012 that was prepared by the then Department of Planning & Infrastructure under SEPP Urban Renewal.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Consistency (of the planning proposal) with the s117 Ministerial Directions is outlined in the table below.

Table 2 - Consideration of Section 117 Directions

S117 Direction	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	N/A
1.2 Rural Zones	No	N/A
1.3 Mining, Petroleum Production and Extractive Industries	No	N/A
1.4 Oyster Aquaculture	No	N/A
1.5 Rural Lands	No	N/A
2. Environment and Heritage		
2.1 Environment Protection Zones	No	N/A
2.2 Coastal Protection	No	N/A
2.3 Heritage Conservation	Yes	Yes. It is not envisaged that there will be any adverse effects on items or places of European or Aboriginal cultural heritage
2.4 Recreation Vehicle Areas	No	N/A
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Yes	Yes. The amendment to clause 6.4 enables flexibility of land use planning policy in residential zones.
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	N/A
3.4 Integrating Land Use and Transport	No	N/A
3.5 Development Near Licensed Aerodromes	No	N/A
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	N/A
4.2 Mine Subsidence and Unstable Land	No	N/A
4.3 Flood Prone Land	No	N/A
4.4 Planning for Bushfire Protection	No	N/A
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes. The amendment to clause 6.4 is consistent with the implementation of regional strategies as it will enable the renewal of urban corridors and will contribute to the generation of a employment opportunities.

S117 Direction	Applicable	Consistent
5.2 Sydney Drinking Water Catchments	No	N/A
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	N/A
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	N/A
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	N/A
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	N/A
5.8 Second Sydney Airport: Badgerys Creek	No	N/A
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	N/A
6.2 Reserving Land for Public Purposes	No	N/A
6.3 Site Specific Provisions	No	N/A

Section C - Environmental, social, and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal has no potential for critical habitat or threatened species, populations or ecological communities (or their habitats) to be adversely affected.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The Planning Proposal is an administrative change to clause 6.4(4) and will not have any environmental effects.

9. Has the planning proposal adequately addressed any social and economic effects?

Yes. The purpose of this amendment to clause 6.4 is to create better social and economic development outcomes in the existing R4 zoned renewal corridors. It is expected that by restricting the applicability of this clause only to Development Applications which propose "the erection of a building", that this will have a positive impact on the flexibility of these sites to provide for new development, creating better social and economic development outcomes in the existing R4 zoned renewal corridors.

The changes are in response to industry representation following the lodgement of DAs for change of use and redevelopment of former commercial sites.

It is not envisaged that there will be any adverse effects on items or places of European or Aboriginal cultural heritage, nor will it have any adverse impacts on existing social infrastructure such as schools, hospitals or existing retail centres.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The change to Clause 6(4) is not expected to have any impact on the demand for existing public infrastructure including electricity, water and sewer. All relevant government agencies will be consulted in accordance with the requirements of the gateway determination.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation with State and Commonwealth public authorities will be carried out in accordance with the requirements of the Gateway determination issued by the Department of Planning and Environment.

Part 4 – Mapping

The Planning proposal does not seek to amend any maps within Newcastle LEP 2012.

Part 5 – Community Consultation

The Planning Proposal is considered as low impact in accordance with the Department of Planning and Environment's guidelines, 'A guide to preparing local environmental plans' for the following reasons:

- consistency with the pattern of surrounding land use zones and land uses
- consistency with the strategic planning framework
- no issues are presented with regard to infrastructure servicing
- it is not a Principal LEP
- it does not reclassify public land.

It is proposed that the planning proposal will be publicly exhibited for a minimum 14 days. All relevant government agencies will be consulted in accordance with the requirements of the gateway determination.

Part 6 – Project Timeline

The project is expected to be completed within nine (9) months of Gateway Determination. The following timetable is proposed:

Task	Planning Proposal Timeline											
	Jan 16	Feb 16	Mar 16	Apr 16	May 16	Jun 15	Jul 15	Aug 15	Sep 15	Oct 15	Nov 15	Dec 15
Issue of Gateway Determination												
Prepare any outstanding studies												
Consult with required State Agencies												
Exhibition of planning proposal and technical studies												
Review of submissions and preparation of report to Council												
Report to Council following exhibition												
Planning Proposal sent back to Department requesting that the draft LEP be prepared												