

Planning Services

Plan Finalisation Report

Local Government Area: Newcastle

File Number: OBJ16/04187

1. NAME OF DRAFT LEP

Newcastle Local Environmental Plan 2012 Amendment No.30 (draft LEP).

2. SITE DESCRIPTION

The planning proposal applies to land at 26 Edith Street and RD 20435, Waratah (the site).

3. PURPOSE OF PLAN

The draft LEP seeks to:

- reclassify and rezone land at 26 Edith Street, Waratah, known as Wrightson Reserve from RE1 Public Recreation to SP2 Health Services Facility; and
- correct a zoning anomaly for Edith Street at RD 20435 by rezoning RE1 Public Recreation to R2 Low Density Residential; and
- make changes to the height of buildings, floor space ratio and minimum lot size LEP maps for Wrightson Reserve and RD 20435.

The site adjoins the Mater Calvary Hospital complex, hence the proposal will enable the expansion of the health facilities, so additional jobs will be created.

STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Newcastle Electorate. Mr Tim Crakanthorp MP is the State Member for Newcastle.

Sharon Claydon MP is the Federal Member for Newcastle.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.
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NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

4. GATEWAY DETERMINATION

The Gateway determination issued on 22 December 2016 (**Attachment A**) determined that the proposal should proceed. The proposal was due for finalisation on 29 September 2017 and this report recommends that a further extension be granted to enable the proposal to be completed.

5. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 10 April to 10 May 2017. No submissions were received.

A public hearing was also held on 28 June 2017 and no residents or interested parties attended.

6. ADVICE FROM PUBLIC AUTHORITIES

The Gateway determination required consultation with Roads and Maritime Service (RMS). RMS initially objected to the proposal based on there being no traffic study to assess impacts, stating: “any future access from Edith Street for a traffic generating development will compromise the safety and efficiency of the classified road”. The site constraints for gaining rear access via Allowah Street was their main concern (see Figure 1).



Figure 1 – traffic context

Council provided further advice in relation the ability to provide practical vehicular access at the rear of the site via Allowah Street using the Platt Street traffic lights to access Edith Street (see Figure 1).

RMS on 13 June 2018 (**Attachment B**) removed its objection to the proposal (subject to conditions) following further information from Council in relation to the provision of practical vehicular access via Allowah Street into Platt Street addressing the site constraints. "Roads and Maritime does not object to the Planning Proposal, in principle, subject to investigations revealing that a road design of Allowah Street can be constructed and will provide a suitable connection for future development to access the rear of 26 Edith Street."

A site inspection by DPE staff in June 2018 confirmed Council's advice regarding the topography constraints not limiting physically access on Allowah Street when compared to the adjoining car park fronting Platt Street near the site (see Figure 3).



Figure 3 – Wrightson Reserve topography

Platt Street car park

(Source google street view)

7. POST EXHIBITION CHANGES

No changes have been made to the proposal post exhibition.

8. ASSESSMENT

The key issues for this site includes the loss of recreation land and vehicular access limitations from Edith Street (being a classified road).

Council undertook a detailed review of city wide recreation reserves in "The City of Newcastle Parkland and Recreation Strategy – Background and Appendices March 2014". The strategy includes a review of recreation standards and needs against current provision and future population projections to recommend areas no longer suitable for recreation reserve purposes, and other areas for expansion or improvements to recreation facilities.

Each reserve was assessed against design and performance criteria and those with the lowest scores were further assessed against Council's 'Public Land Reclassification Policy'.

Wrightson Reserve (subject land) was identified as not being suitable for recreation purposes hence suitable for potential disposal as it contained the following issues: vegetation, stormwater runoff and erosion, overland flow through site, green corridor.

Braye Park is located nearby and provides for passive recreation opportunities and dog off-leash area. Waratah Park is the main district park servicing this area, noting there are limited 'pocket' parks in the vicinity. Council advise that the proceeds from the sale of surplus sites will go towards improvements to parklands.

Figure 2 under identifies the surrounding parkland to service the population catchment. The subject site is around 5,400 m² and fronts Edith Street which is a classified main road which has vehicular access limitations. The Department also recognises the access and parking limitations for practical public use of the site.

Council has justified the reclassification and rezoning of this site and loss of recreation land through the strategy process and outcomes.

The draft LEP was considered by the Governor and Executive Council on 3 May 2018 who granted approval under section 30(2) of the Local Government Act 1993 to reclassify community land as operational (**Attachment Exco**) and removed the public reserve status of the land.

The site adjoins the Mater Hospital and will facilitate the expansion of health related facilities for the Hunter Region.

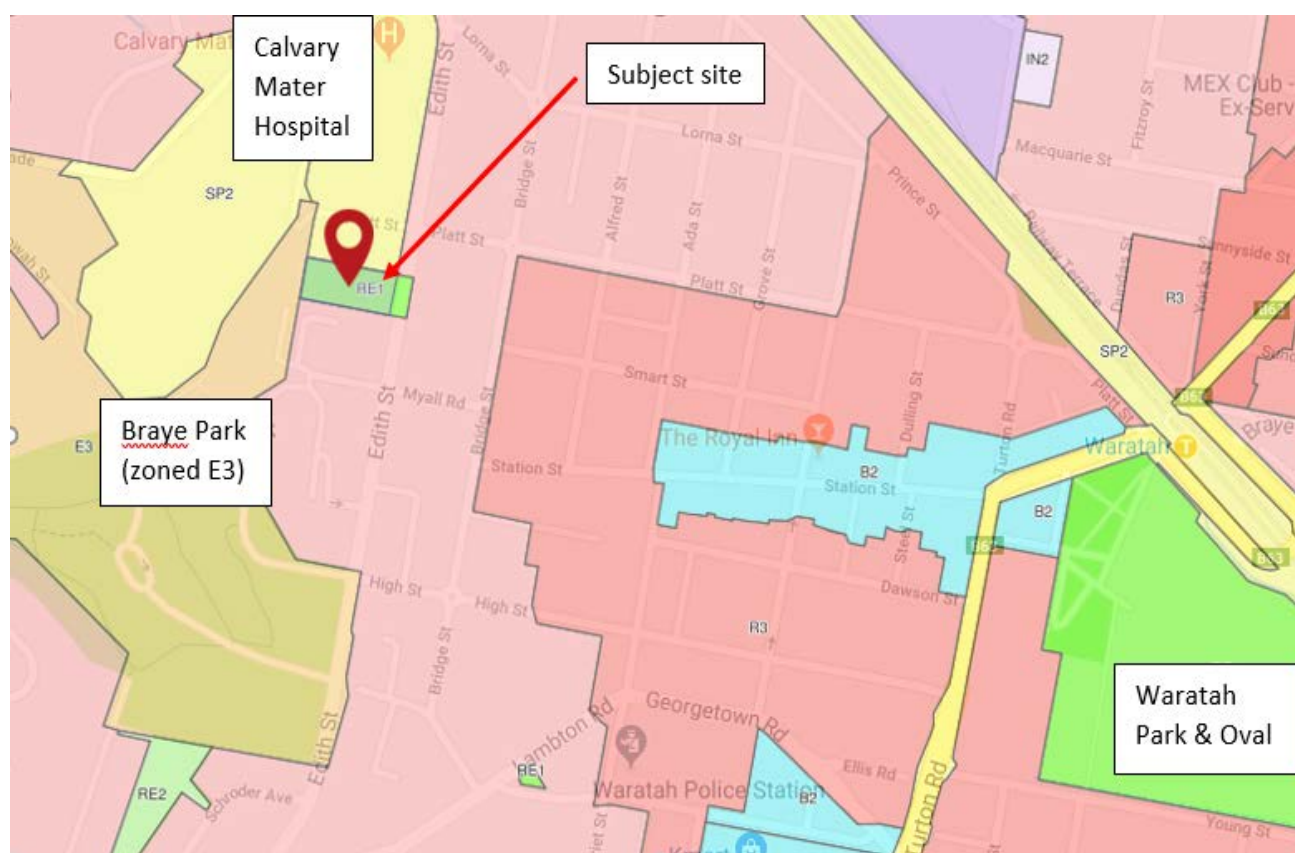


Figure 2 – surrounding recreation areas

As outlined under the heading of “advice from public authorities’, RMS raised concerns for how practical and functional access to the site would be provided given a right turn in and out of the site would not be possible and the steep site constraints at the rear of the site

accessing Allowah Street. Council provided evidence that this could be achieved and that the site is suitable for the expansion of hospital and medical facilities. RMS has removed its objection to the proposal.

In addition, the proposal also corrects an anomaly in relation to RD 20435, being the segment of road reserve fronting Wrightson Reserve. Making the zoning and associated planning controls of this road segment consistent with the adjoining residential land will correct this anomaly.

Section 9.1 Directions

Section 9.1 Direction 6.2 Reserving Land for Public Purposes applies to the Planning Proposal and the letter to Council accompanying the Gateway determination advised that the consistency with this Direction would be considered following consultation.

Council's decision to reclassify and sell this land is justified through The City of Newcastle Parkland and Recreation Strategy – Background and Appendices March 2014, in which 12 land parcels were identified as sub-optimal for recreation and as having potential for reclassification and disposal.

As mentioned earlier in this report, there are large recreation areas within the population catchment and the loss of this site (5,400 m²) is considered acceptable and justified by a comprehensive assessment and strategy approach to recreation provision. The sites location fronting a busy road makes accessing this site for recreation purposes difficult.

The proposal is therefore considered consistent with Direction as the finalisation of the LEP will issue the necessary approval.

State Environmental Planning Policies

The draft LEP is consistent with relevant SEPPs as discussed in the Gateway determination report (21.12.2016).

9. MAPPING

This LEP includes the amendment of four LEP maps, being:

- Land zoning map – rezone:
 - Wrightson Reserve from RE1 Public Recreation to SP2 Health Services Facility;
 - part of RD 20435 from RE1 Public Recreation to R2 Low Density Residential;
- Height of buildings map - 8.5 metres for RD 20435;
- Floor space ratio map - 0.75 for RD 20435;
- Lot size map:
 - RD 20435 from 40ha to 450m²: and
 - remove Wrightson Avenue Reserve from the map.

The maps have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel ready for publication.

10. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the Environmental Planning and Assessment Act 1979 (**Attachment C**). Council confirmed on 15 March 2018 that it was happy with the draft and that the Plan should be made (**Attachment D**).

11. PARLIAMENTARY COUNSEL OPINION

On 20 March 2018 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion was re-issued on 27 June 2018 due to the length of time that had passed since the original PC opinion, and is provided at **Attachment PC**.

12. CONCLUSION

The following matters have been considered in recommending that the plan can be made:

- all conditions of the Gateway determination have been met;
- the loss of 5,400 m² of recreation land is justified by the adopted recreation strategy;
- the public benefit on making the site available for the expansion of hospital and medical facilities;
- vehicular access constraints have been addressed resulting in the removal of the objections from RMS; and
- the minor changes for the road reserve segment (RD 20435) are consistent with the adjoining residential land.

13. RECOMMENDATION

That the Director Regions, Hunter, as delegate of the Secretary:

1. **determine** that the draft LEP's inconsistency with section 9.1 Direction 6.2 Reserving Land for Public Purposes is justified in accordance with the terms of the Direction.

That the Director Regions, Hunter as delegate of the Minister:

1. **agree** under section 3.34(7) of the Environmental Planning and Assessment Act 1979 (the Act), to alter the Gateway determination for planning proposal no. PP_2016_NEWCA_009_00 as set out in the **Alteration of Gateway determination** which involves the extension of the timeframe to complete the proposal by deleting condition 5. and replacing it with a new condition as shown under;
5. The timeframe to complete the LEP is to be 3 August 2018;
2. **agree** under schedule 1, clause 4 of the Act that no additional community consultation is required;
3. **note** the planning proposal (**Attachment E**), and the Gateway determination (**Attachment A**);
4. **note** the Governor's approval under section 30(2) of the *Local Government Act 1993* to reclassify community land as operational (**Attachment Exco**);
5. **note** Parliamentary Counsel's Opinion that the draft LEP can legally be made and no changes have been made to the draft LEP since obtaining this Opinion (**Attachment PC**);
6. **note** the LEP maps (**Attachment Maps**), which have been approved by the Department's ePlanning Team and provided to Parliamentary Counsel;
7. **make** the draft LEP under section 3.36(2)(a) of *Environmental Planning and Assessment Act 1979* (the Act), by signing the instrument (**Attachment LEP**) and supporting Map Cover Sheet (**Attachment MCS**) respectively; and

8. **sign** the letter to Newcastle Council (**Attachment Council**) advising of this decision.

A handwritten signature in black ink, appearing to read 'Monica Gibson', with a stylized, cursive script.

24/7/2018

Monica Gibson

Director Regions, Hunter

Planning Services

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