

Office of the Director General

Ms Lea Rosser
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Our ref: PP_2012_CESSN_005_00 (12/19138)
Your ref:

Dear Ms Rosser,

Planning proposal to amend the Cessnock Local Environmental Plan 2011

I am writing in response to Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Cessnock Local Environmental Plan (LEP) 2011 to rezone land at John Renshaw Drive and Black Hill Road, Black Hill for industrial and environmental protection purposes.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also determined it is not necessary to prepare the structure plan for the freight hub precinct in accordance with the Lower Hunter Regional Strategy, for the land south of John Renshaw Drive. It is considered the required flora and fauna investigations will determine the environmental conservation outcomes.

Furthermore it is agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands and 3.4 Integrating Land Use and Transport are justified by the Lower Hunter Regional Strategy. No further approval is required in relation to these Directions.

It is noted as part of this planning proposal process, Council seeks to amend its development control plan and Section 94 contribution plan and prepare a voluntary planning agreement. It is recommended this additional work is carried out at a later stage, to reduce the time taken to finalise the LEP. The inclusion of the subject site as an Urban Release Area also ensures the development contributes towards the provision of designated State infrastructure and a Development Control Plan is prepared before any development application is determined.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as practical after the completion of the studies so as to meet the 12 month timeframe. Council's request for the department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The NSW State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Trent Wink of the regional office of the department on 02 4904 2700.

Yours sincerely,


Sam Haddad
Director General

11/12/2012.

Gateway Determination

Planning proposal (Department Ref: PP_2012_CESSN_005_00): to amend Cessnock Local Environmental Plan 2011 to rezone land for industrial and environmental protection purposes.

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Cessnock Local Environmental Plan (LEP) 2011 to rezone land at John Renshaw Drive and Black Hill Road, Black Hill from RU2 Rural Landscape to IN1 General Industrial and E2 Environmental Conservation should proceed subject to the following conditions:

1. Prior to commencing public exhibition, Council is to prepare maps that show the zones proposed for the site and any other development controls that will apply to the site, to achieve Councils intended outcomes. The 'explanation of provisions' in the planning proposal is to be amended to include any proposed local clauses to further illustrate Council's intention for the site.
2. Council has identified additional information regarding flora and fauna, Aboriginal archaeology and European heritage, transport, bushfire, visual impacts, social impacts and public utilities feasibility to be provided to support the planning proposal. The planning proposal should be updated to include this information prior to being placed on public exhibition.
3. Prior to commencing public exhibition, Council is to amend the planning proposal to identify the subject site as an Urban Release Area. The department's model clause is to be adopted to require the development to contribute towards the provision of designated state infrastructure, provide required public utility infrastructure and that a development control plan is prepared before any development application is determined.
4. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land and the *Contaminated Land Planning Guidelines*. Council is to prepare an initial site contamination investigation to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Mine Subsidence Board
 - NSW Rural Fire Service
 - Transport for NSW – Roads and Maritime Service
 - NSW Aboriginal Land Council
 - Office of Environment and Heritage
 - NSW Department of Primary Industries – Agriculture



- NSW Department of Primary Industries – Minerals and Petroleum

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

7. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated

11th

day of

December

2012.

Sam Haddad
Director General
Delegate of the Minister for Planning and
Infrastructure