

Cessnock Local Environmental Plan 2011 Amendment - Black Hill Employment Lands

Proposal Title : **Cessnock Local Environmental Plan 2011 Amendment - Black Hill Employment Lands**

Proposal Summary : **The Planning Proposal seeks to rezone the subject land from RU2 Rural Landscape to part Industrial and part Environmental under the Cessnock Local Environmental Plan 2011.**

The proposed zones, zone boundaries, development standards and any local clauses need to be finalised before the planning proposal is publicly exhibited.

The Lower Hunter Regional Strategy and Council's City Wide Settlement Strategy identifies the subject land as part of the future freight hub and for employment lands.

PP Number : **PP_2012_CESSN_005_00** Dop File No : **12/13190**

Proposal Details

Date Planning Proposal Received : **12-Nov-2012** LGA covered : **Cessnock**

Region : **Hunter** RPA : **Cessnock City Council**

State Electorate : **CESSNOCK** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Lot 1131 DP 1057179**

Suburb : **John Renshaw Drive & Black Hill Road** City : **Black Hill** Postcode : **2322**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Trent Wink**

Contact Number : **0249042716**

Contact Email : **trent.wink@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Bo Moshage**

Contact Number : **0249934241**

Contact Email : **bo.moshage@cessnock.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 Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	300.00	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	1,000

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **The planning proposal is consistent with the Lower Hunter Regional Strategy**

Further studies need to be undertaken to determine future zone boundaries. Consultation with relevant government authorities will also ensure that their respective requirements are satisfactorily addressed.

Council's intention to exhibit the PP with a draft DCP is not supported or necessary prior to the rezoning being completed. It is recommended that this site be identified as an Urban Release Area so that it contributes towards the provision of designated State Infrastructure, provides required public utility infrastructure and a DCP is prepared before any development application is determined.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **Council recognises that further studies need to be undertaken to determine future zone boundaries.**

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

Is an explanation of provisions provided? **Yes**

Comment : **The PP nominates the use of the IN1 General Industrial Zone and other zones to manage on site environmental considerations. The use of the IN1 General Industrial Zone may not be appropriate because it is currently only used for the Hunter Employment Zone (HEZ) and it has a site specific HEZ objective which encourages major industrial development and**

major employment generating development. Potentially this objective could be amended so it only applies to HEZ. The current IN1 permissible land uses are considered compatible with an industrial zone, with the exception of pubs, registered clubs and child care centres. Alternatively Council could consider the use of another industrial zone.

The environmental zones will be determined by the flora and fauna and visual assessments. The NSW Office of Environment and Heritage will also be involved in this process.

Further planning investigations will determine the appropriate zones. It is recommended that the proposed zones and planning controls be reviewed by the Department before the planning proposal is publicly exhibited.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.4 Integrating Land Use and Transport

4.2 Mine Subsidence and Unstable Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Infrastructure) 2007

e) List any other matters that need to be considered :

The Freight Hub Hunter Study prepared by NSW Premiers and Cabinet 2009

The Lower Hunter Regional Strategy identifies the need to develop a structure plan that maximises the employment and conservation outcomes for the freight hub precinct. The Freight Hub study prepared by NSW Premiers and Cabinet 2009 identified potential sites for the location of a freight hub and supporting employment land. The land that is subject to this proposal was not identified as a preferred site for this purpose. A structure plan for this site is not considered necessary for compliance with the Lower Hunter Regional Strategy because the land is outside of the priority area.

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

If No, explain :

The Department endorsed the City Wide Settlement Strategy 2003

The studies required to address relevant SEPPs and s117 Directions need to be prepared before the planning proposal is publicly exhibited.

SEPP No 44—Koala Habitat Protection

Comment: Flora and fauna assessment will address SEPP 44.

SEPP No 55—Remediation of Land

Comment: Contamination report required.

SEPP (Infrastructure) 2007

Comment: Relevant for future land uses.

Minister's s117 Directions

1.2 Rural Zones

Comment: Draft LEP inconsistency justified by LHRS.

1.3 Mining, Petroleum Production and Extractive Industries

Comment: Consultation with DPI required to determine consistency.

1.5 Rural Lands

Comment: Draft LEP inconsistency justified by LHRS

2.1 Environment Protection Zones

Comment: Conservation areas to be determined by flora and fauna assessments and consultation with OEH.

2.3 Heritage Conservation

Comment: Aboriginal archaeological and European heritage assessment study required to determine consistency.

3.4 Integrating Land Use and Transport

Comment: This locality is identified as a future freight hub and for employment lands, however it is currently undeveloped. Any potential inconsistency is justified by LHRS and the land is well connected by roads and potentially rail infrastructure.

4.2 Mine Subsidence and Unstable Land

Comment: Underground mining will occur under the subject land over the next 12 months. Consultation with mine subsidence board required because it will eventually be a mine subsidence district.

4.4 Planning for Bushfire Protection

Comments: Bushfire assessment and consultation required with NSW RFS.

5.1 Implementation of Regional Strategies

Comment: The PP is considered consistent with this direction because the subject site is included within the area identified for future freight hub and employment lands.

Although it is noted that the site is not a priority location for the freight hub, the proposed zone is not considered inconsistent with its development on other sites within the precinct.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : Council has provided preliminary zoning maps. It is recommended that the proposed zones, zone boundaries and development standards be reviewed by the Department's regional office before the planning proposal is publicly exhibited.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : A minimum of 28 days is recommended

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? **Yes**

If No, comment : The Planning Proposal should proceed. The required studies and consultation with relevant agencies will determine the appropriate zone boundaries and planning controls.

Proposal Assessment

Principal LEP:

Due Date : **December 2011**

Comments in relation to Principal LEP : **The SILEP was published on 23 December 2011**

Assessment Criteria

Need for planning proposal :	Yes. A planning proposal is required to rezone the subject land to part Industrial and part Environmental.
Consistency with strategic planning framework :	The Lower Hunter Regional Strategy and Council's City Wide Settlement Strategy identifies the subject land as part of the precinct for the future freight hub and employment lands. Although the site is not a priority location for the freight hub, the proposed zone is not considered inconsistent with its development on other sites within the precinct. This locality is well connected by roads and potentially rail infrastructure.
Environmental social economic impacts :	Environmental Impacts The subject land has been substantially cleared and used for agricultural activities, including grazing, extensive chicken-egg farming and other animal production. Native remnant vegetation still exists within the riparian corridors along the creek lines. It will be necessary to update the existing flora and fauna assessments in order to determine the potential environmental impacts. It is likely that a vegetation impacts will need to be resolved with the NSW Office of the Environment and Heritage, to ensure that the development achieves the 'improve or maintain' principle under the Native Vegetation Conservation Act 2003. Social and Economic Impacts The planning proposal should have a net community benefit by providing employment lands as identified in the Lower Hunter Regional Strategy. The applicant at the request of Council has held two meetings with the Black Hill Environment Protection Group to discuss the proposed rezoning and potential concept plans. The groups aim is to protect the amenity and community of Black Hill. It raises concern that the freight hub is no longer required and there should be a transition zone between the industrial lands and the rural residential allotments to the South. The group suggests an E4 Environmental Living zone which would create additional allotments to support the Black Hill community and school. Further studies will determine zone boundaries and give consideration to the potential impacts on adjoining rural residential properties.

Assessment Process

Proposal type :	Consistent	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 Month	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	NSW Aboriginal Land Council Office of Environment and Heritage NSW Department of Primary Industries - Agriculture NSW Department of Primary Industries - Minerals and Petroleum Mine Subsidence Board NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :	Further studies need to be prepared to determine future zone boundaries and future development requirements. Consultation with relevant government authorities will also ensure that their respective requirements are satisfactorily addressed.		

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Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

Flora

Fauna

Heritage

Bushfire

Other - provide details below

If Other, provide reasons :

The following studies need to be prepared to determine potential impacts before the planning proposal is publicly exhibited

Updated flora and fauna assessment

Aboriginal archaeological and European heritage assessment

Contamination report addressing the requirements of SEPP 55

Traffic Impact assessment

Bushfire Assessment

Visual impact assessment

Social impact assessment

Public Utilities Feasibility Assessment to demonstrate that it is or will be physically and financially feasible to provide essential infrastructure.

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 Infrastructure Planning and Coordination Unit has issued its concurrence for the site to be mapped as an urban release area.**

Documents

Document File Name	DocumentType Name	Is Public
DG Letter advising Council to submit PP within 40 days.pdf	Determination Document	Yes
Black Hill PP _ November 2012.pdf	Proposal	Yes
Applicant and Black Hill Protection Group meetings.pdf	Determination Document	Yes
IPC Concurrence to map as Urban Release Area.docx	Determination Document	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.4 Integrating Land Use and Transport**
- 4.2 Mine Subsidence and Unstable Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**

Additional Information : **It is recommended that:**

- 1. The Planning Proposal be supported.**
- 2. Council is to undertake the following studies to support the planning proposal:-**

- Updated flora and fauna assessment
- Aboriginal archaeological and European heritage assessment
- Contamination report to address SEPP 55
- Traffic Impact assessment
- Bushfire Assessment
- Visual impact assessment
- Social impact assessment
- Public Utilities Feasibility Assessment

The planning proposal should be updated and placed on public exhibition within 6 weeks of receiving the required studies.

3. The proposed zones, zone boundaries, development standards and any local clauses be reviewed by the Department's regional office before the planning proposal is publicly exhibited.

4. The subject site be identified as an Urban Release Area and the Department's model clause adopted to require the development to contribute towards the provision of designated State Infrastructure, provide required public utility infrastructure and that a DCP is prepared before any development application is determined. This will address Council's requirement for a DCP without causing unnecessary delays.

5. The preparation of freight hub structure plan is not required because the land south of John Renshaw Drive is recognised as potential employment lands and the proposal is not inconsistent with a future freight hub. The flora and fauna assessment will determine the required conservation outcomes.

6. Council should not delay the exhibition of the Planning Proposal for the preparation of a draft DCP, draft contribution plan and / or draft Voluntary Planning Agreement. Provisions exist that require these to be prepared prior to development consent.

7. Update the Planning Proposal in accordance with the Gateway Determination before commencing public exhibition. It is important to justify the proposed zones, zone boundaries, development standards and any local clauses.

8. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 ('EP&A' Act) as follows:

- (a) the Planning Proposal be made publicly available for 28 days;
- (b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 4.5 of A guide to preparing LEPs (Department for Planning 2009).

9. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- Mine subsidence Board
- Rural fire Service
- Transport for NSW - Roads and Maritime Services
- 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.

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10. The Director General (or delegate) approves the minor inconsistencies with the Minister's S117 Direction 1.2 Rural Zones, 1.5 Rural Lands and 3.4 Integrating Land Use and Transport because the inconsistencies are justified by the Lower Hunter Regional Strategy.

11. 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.

12. The timeframe for completing the LEP is 12 months from the date of the Gateway Determination.

Supporting Reasons :

The planning proposal is consistent with the Lower Hunter Regional Strategy

Comprehensive studies need to be undertaken to determine future zone boundaries and development requirements. The Department's regional office will review the proposed zones, zone boundaries, development standards and any local clauses before the planning proposal is publicly exhibited.

Signature:



Printed Name:

KOFLAHERTY

Date:

23-11-12