

Newcastle LEP 2012- Reclassification and rezoning of land at 162A Newcastle Road, Wallsend and at 4 Mayo Street, Jesmond

Proposal Title :	Newcastle LEP 2012- Reclassification and rezoning of land at 162A Newcastle Road, Wallsend and at 4 Mayo Street, Jesmond		
Proposal Summary :	The proposal seeks to: a) Rezone 162A Newcastle Road Wallsend from RE1 Public Recreation zone to R3 Medium Density Residential, b) Rezone 4 Mayo Street, Jesmond from RE1 to R2 Low Density Residential, c) Reclassify both sites from Community land to Operational land and amend Height of Building, Floorspace Ratio and Minimum Lot Size maps for both sites above.		
PP Number :	PP_2016_NEWCA_001_00	Dop File No :	15/18262 & 15/18261

Proposal Details

Date Planning Proposal Received :	28-Jan-2016	LGA covered :	Newcastle
Region :	Hunter	RPA :	Newcastle City Council
State Electorate :	WALLSEND	Section of the Act :	55 - Planning Proposal
LEP Type :	Reclassification		

Location Details

Street :	162A Newcastle Road		
Suburb :	Wallsend	City :	Newcastle
Land Parcel :	Lot 110, DP 9755	Postcode :	
Street :	4 Mayo Street		
Suburb :	Jesmond	City :	Newcastle
Land Parcel :	Lot 20, DP 230341	Postcode :	

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	1.06	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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 : **146A Newcastle Road (Lot 110, DP 9755) is a Council-owned circular lot of green space surrounded by housing and with a short 7m wide access spur off Newcastle Road, Wallsend.**

4 Mayo Street is part of Council's McClure Reserve flanking a channelised section of Dark Creek at Jesmond.

Both sites are classified as Community Land under the Local Government Act 1993, being part of the open space network. Council seeks to reclassify both sites for residential development.

In response to the Department's query about a property description anomaly for the Wallsend site, Council advised that its property consultant (City Plan, Newcastle) found a mapping error on State Land and Property Information Service (SIX) mapping. This has been acknowledged by that agency. The whole of the land should be mapped as being Lot 110, DP 9755 and mapped as being public reserve. The whole site is therefore subject to this reclassification and rezoning proposal.

External Supporting Notes : **As the current and proposed zonings for both sites are similar, as are their processes for exhibition, public hearings and reclassification, they are being assessed here as if a single planning Gateway proposal. This approach was agreed by Council.**

Adequacy Assessment

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

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

Comment : **To reclassify and rezone the land for residential use**

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

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

Comment : **Proposed Newcastle LEP changes for 162A Newcastle Road, Wallsend and 4 Mayo Street, Jesmond are on pages 4 and 5 of their respective planning proposals, in short:**

- ☐ **Rezone the sites**
- ☐ **Reclassify the sites from Community Land to Operational Land**
- ☐ **Amend the respective development intensity controls to facilitate medium density housing and low density residential use respectively.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

* May need the Director General's agreement

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

SEPP No 21—Caravan Parks

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

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

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

If No, explain : **Further consultation with OEH is required on flood risk assessment.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The exhibition period (28 days) and a public hearing will be required to meet the land reclassification requirements of the Local Government Act 1993.**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Newcastle Standard Instrument LEP was published on 15 June 2012.**

Assessment Criteria

Need for planning proposal : **Following a review of council public open space assets a number of sites have been identified as having development potential subject to rezoning, setting development intensity controls and the reclassification process required for public land under the Local Government Act, 1993. The subject land is two such sites.**

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Consistency with strategic planning framework :

NSW Local Government Act 1993

Both sites are classified as Community Land under the Local Government Act 1993, being local public parks.

State Environmental Planning Policies:

State Environmental Planning Policy No 44

(Koala Habitat Protection)

While this SEPP is statewide, neither site has any components of Koala habitat.

State Environmental Planning Policy No 55

(Remediation of Land)

Council's report indicates that neighbours of the Newcastle Road site recall a motor vehicle repair use of the site.

The 4 Mayo Street site (McLure Reserve) has some history of land-filling which would appear to warrant Council commissioning a preliminary contamination assessment. Council has indicated that they will undertake preliminary contamination investigations and assessments of both sites to demonstrate their suitability for the residential uses now proposed.

Section 117 Planning Directions:

Direction 3.1 Residential Zones

Both sites offer potential for a range of housing types under Council's housing code and both are set in neighbourhoods with some existing housing variety.

The proposals are consistent with this Direction.

Direction 3.2 Caravan Parks and Manufactured Home Estates (MHE)

The two sites are proposed for R3 and R2 residential zones respectively, which do not permit caravan parks or manufactured home estates. However it is noted that the Newcastle Road site has size and access constraints likely to be unacceptable for a caravan park or MHE. The Mayo Street (McLure Reserve) constraints, of flood liability, flood emergency egress and neighbourhood amenity, likewise render it inappropriate for caravans or manufactured homes.

The proposals are inconsistent with this Direction which aims to retain planning provisions which permit these forms of accommodation. As there is no actual loss of space for these uses, and as the sites involved are so heavily constrained as to be unsuitable for caravans or manufactured homes, it is recommended that the Delegate accept the inconsistencies of both proposals as being of minor significance.

Direction 3.4 Integrating Land Use and Transport

The Mayo Street site is 250m from an existing shared pathway that then provides safe and easy access to Wilkinson Avenue and thence to the University of Newcastle Callaghan Campus.

The Newcastle Road site has a single all-mode access/ egress.

Newcastle Road is divided by median at this location and hence access would need to be endorsed by RMS as manager of this main road. Council should therefore refer the proposal to RMS.

Direction 4.1 Acid Sulfate Soils

Both sites have minor acid sulphate soils risk, stated by Council as being mapped as Class 5. The existing provisions of the Newcastle LEP 2012 will ensure appropriate consideration of these matters at the development assessment stage.

Direction 4.3 Flood Prone Land

The Mayo Street site is mapped as having areas within floodway, flood storage and flood fringe risk categories, although the proposed residential zoning is limited to the lower risk

categories. In this regard Council responds that:

Section 9(a)[of Direction 4.3 Flood Prone Land] permits a Planning Proposal to be inconsistent with the Direction if it is in accordance with a floodplain risk management plan prepared in accordance with the principles and guidelines of the Floodplain Development Manual 2005.

The Newcastle City Wide Floodplain Management Plan was prepared in accordance with the Manual, and allows for certain development within flood prone land if it is in accordance with specific conditions. The Planning Proposal proposes that the R2 zone is positioned within flood fringe and storage areas, where conditions specified by the Floodplain Management Plan may be met through the residential design process.

It is noted that, unlike many other councils, Newcastle bases its flood management policy on Predicted Maximum Flood, rather than the 1 in 100 year (1%) flood event. This can provide a greater safety margin in some areas.

At this stage the adequacy of historic data, and flood modeling from eight years ago, is uncertain as providing a suitable basis for planning residential development on the 4 Mayo Street site. Before consideration of the inconsistency as possibly being 'of minor significance', Council should be required to refer the proposal to Office of Environment and Heritage (OEHL) for advice on the adequacy of data, modeling and risk margins including appropriate planning responses to current climate change scenarios.

Consistency of the proposal under this Direction is to be determined by consultation with OEHL prior to exhibition.

The Newcastle Road site is not on or near flood prone land and so that aspect of the proposal is consistent with the Direction.

Direction 5.1 Implementation of Regional Strategies
Both sites are consistent with this Direction.

Direction 6.1 Approval and Referral Requirements
The proposal does not introduce new referral requirements for either site.
The proposal is consistent with the Direction.

Direction 6.2 Reserving Land for Public Purposes
Clause 4 of the Direction states:

(4) A planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director-General of the Department of Planning (or an officer of the Department nominated by the Director-General).

As the proposals seek to remove the public reserve status of two public park areas by reclassification and rezoning, they are inconsistent with this Direction.
Council justifies the extent to which these areas are surplus to public need/ demand through the associated recreational land assessment documents and this work is to be exhibited alongside the proposal.

Council advised that the deeds of dedication for the reserves are not available.
Notification of exhibition details to the owners and occupiers of nearby properties will provide opportunity for discovery of any historic rights over the reserve which may be extinguished by the proposed reclassification.
Consistency with this Direction will therefore be determined following exhibition.

Direction 6.3 Site Specific Provisions

By rezoning both sites the proposal avoids any site-specific provisions to achieve the planning outcomes.

The proposal is consistent with the Direction.

☐ **Lower Hunter Regional Strategy 2006**

While strategically insignificant at the regional scale, the sites may enable additional dwellings to be built on the land and hence contribute to regional plan dwelling targets within serviced, accessible and established residential areas.

The proposals are consistent with the regional strategy.

☐ **Draft Hunter Regional Plan 2015**

The plan aims to build community resilience to hazards. One action to achieve this is Action 4.3.1 which seeks to improve the quality and consistency of hazard data within the region. This is pertinent to the 4 Mayo Street site.

With an investigation into improving the flood data and modeling on the Mayo Street site that proposal will be consistent with the Draft Plan.

☐ **Draft Plan for Growing Hunter City 2015**

The identification of Mayo Street as a new housing opportunity within the existing urban area is consistent with Action 1.2.1 of the Plan and may improve housing choice, especially within easy access to the University of Newcastle.

☐ **Newcastle 2030 Community Strategic Plan, 2011**

The proposals are not inconsistent with the Community Strategic Plan, 2011.

☐ **Plans of Management for Community Land and Newcastle Parkland and Recreation Strategy**

There is no Plan of Management for the Newcastle Road site. In 2010 (prior to the preparation of the Newcastle Parkland and Recreation Strategy) Council commissioned a city-wide review of open space. This review considered 264 parcels of land up to 1.8ha in size toward identifying open space parcels, particularly pocket parks, for potential disposal. The review concluded that due to a significant number of constraints only 12 parcels of land had potential for reclassification and disposal.

It is noted that on page 60 of Council's adopted Newcastle Parkland and Recreation Strategy (Volume 2- Background and Appendices) the constraints identified across the larger 1.73ha Maclure Reserve (at 4 Mayo Street) are 'Vegetation, creek, stormwater infrastructure, threatened species, green corridor. Also, in conclusion, the site was not recommended for disposal. It is noted that flood liability was not included as a constraint. (see Direction 4.3 Flood Prone Land below).

Council states that:

'The findings of the open space review have been included in the Newcastle Parkland and Recreation Strategy Background Report. Due to a number of constraints Maclure Reserve was not considered for disposal'.

'Following further investigation of the site it has now been determined that part of Maclure Reserve is suitable for residential development. The proceeds from the disposal of the site will be used to upgrade open space areas in Jesmond (Planning Proposal p.8)'.

Council seeks to reclassify both sites from Community Land to Operational Land with a view to their sale for residential purposes.

Environmental social
economic impacts :

Environmental, Social and Economic Impacts

☐ **Environmental Impacts-**

Flood impacts requires consultation with OEH although it is noted that the most flood-constrained residual remains recreation land.

Contamination on both sites requires investigation, possible remediation and confirmation

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that they are suitable for residential use.

☐ **Social Impacts-**

The Mayo Street proposal has potential to provide affordable student/ staff accommodation close to the University and to the Jesmond/ Blue Gum Road shopping centre, both accessible by cycling and walking.

The social impacts of reclassifying and rezoning the Newcastle Road site will be clarified through exhibition.

☐ **Economic Impacts-**

Construction and resident spending associated with both sites will benefit local construction and retail sectors.

The reclassification of Mayo Street will result in both a significant capital gain for Council and removal of a maintenance liability over that section of the site.

The Newcastle Road reclassification would enable Council to divest itself of a pocket park for which it has maintenance and public safety responsibilities. It may also achieve residential use with associated capital gain.

Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **12 months** Delegation : **Nil**

Public Authority : **Office of Environment and Heritage**
Consultation - 56(2)(d) : **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 :

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

If Yes, reasons :

Identify any additional studies, if required. :

Other - provide details below

If Other, provide reasons :

Contamination as per Council's proposal

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Letter from Newcastle City Council_16-12-2015_Request for Gateway Determination - 162A Newcastle Road Wallsend_.pdf	Proposal Covering Letter	Yes
Council Resolution - 162A NEWCASTLE ROAD WALLSEND - ENDO.pdf	Proposal	Yes
Attachment A - CCL 081215 - Planning Proposal.pdf	Proposal	Yes
Planning Proposal 4 Mayo Street Jesmond.pdf	Proposal	Yes
Council Report CCL 24 11 15 - 4 MAYO STREET, JESMOND.pdf	Proposal	Yes
Council Resolution _CCL 24 11 15 - 4 MAYO STREET, JESMOND.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

1. That the two proposals proceed as a combined proposal.
2. 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 is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Environment 2013) and must be made publicly available for a minimum of 14 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Environment 2013).
3. Council co-exhibit, with the planning proposal, the documents Recreation Improvement Options paper– Updated November 2014, The City of Newcastle Parkland and Recreation Strategy –Volume One, Adopted March 2014 and The City of Newcastle Parkland and Recreation Strategy –Background and Appendices –Volume Two, Adopted March 2014.
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Office of Environment and Heritage (Section 117 Direction 4.3 Flood Prone Land)
 - Transport for NSW - Roads and Maritime Services
 (Section 117 Direction 3.4 Integrating Land Use and Transport)

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Council arrange a public hearing under section 57 of the Environmental Planning and Assessment Act 1979 in respect of these planning proposals under Part 3 of that Act to reclassify community land as operational land (Section 29(1) Part 2, Local Government Act, 1993).
5. Council obtain the relevant information and confirm that they are satisfied that the subject sites are suitable for development under the provisions of State Environmental

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Planning Policy No 55.

6. Consistency or otherwise of the proposals with Section 117 Direction 6.2- Reserving Land for Public Purposes be determined after public exhibition. In this regard the owners and occupiers of nearby properties are to be advised by Council of the exhibition details.

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).

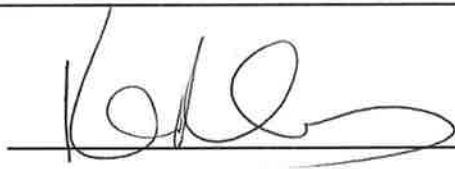
8. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

Delegations:

Council has resolved to not seek or accept delegations for the finalisation of planning proposals. Council has not sought delegation in this case.

Signature:



Printed Name:

K. O'Leary

Date:

9-2-16