

Cessnock LEP 2011 - R3 Medium Density Residential (forms part of the Cessnock Civic Precinct) - James Street, Cessnock

Proposal Title :	Cessnock LEP 2011 - R3 Medium Density Residential (forms part of the Cessnock Civic Precinct) - James Street, Cessnock		
Proposal Summary :	The Planning Proposal will determine whether the subject land should be rezoned from RU2 Rural Landscape to R3 Medium Density Residential under the Cessnock Local Environmental Plan 2011. The rezoning will facilitate the subdivision of up to 25 residential allotments with a minimum lot size of 450m.		
PP Number :	PP_2014_CESSN_003_00	Dop File No :	14/07241

Proposal Details

Date Planning Proposal Received :	29-May-2014	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 :	Part 101 DP1193184		
Suburb :	James Street	City :	Cessnock
		Postcode :	2325
Land Parcel :			

DoP Planning Officer Contact Details

Contact Name :	Trent Wink
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RPA Contact Details

Contact Name :	Robert O'Brien
Contact Number :	0249934100
Contact Email :	Robert.O'Brien@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

Cessnock LEP 2011 - R3 Medium Density Residential (forms part of the Cessnock Civic Precinct) - James Street, Cessnock

MDP Number :

Date of Release :

Area of Release (Ha) : **2.85**

Type of Release (eg Residential / Employment land) : **Residential**

No. of Lots : **0**

No. of Dwellings (where relevant) : **25**

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 :

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives explains that the purpose of the Planning Proposal is to rezone the subject land to facilitate the subdivision of up to 25 residential allotments with a minimum lot size of 450m².**

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

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

Comment : **The explanation of provisions explains that the site will be rezoned from RU2 Rural Landscape to R3 Medium Density Residential under the Cessnock Local Environmental Plan 2011.**

This will involve:-

- 1. Amending Land Zoning Map and rezoning part of Lot 101 DP 1193184 from RU2 Rural Landscape to R3 Medium Density Residential, and**
- 2. amending the Minimum Lot Size Map for part of Lot 101 DP 1193184 from a minimum lot size of 40 hectares to a minimum lot size of 450m², and**
- 3. amending the split zone clause so that it applies to land zoned RU2 Rural Landscape.**

Applying the split zone clause to land zoned RU2 Rural Landscape will permit the subdivision of the residential land from the rural residue, which does not comply with the minimum allotment size of 40ha.

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

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.2 Mine Subsidence and Unstable Land

4.3 Flood Prone 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?

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

SEPP No44 — Koala Habitat Protection

Comment: The ecological assessment found that the site does not constitute 'Potential Koala Habitat'. As such no further provisions of the policy apply to the site.

SEPP No55 — Remediation of Land

Comment: Previous site assessments have demonstrated that the site is uncontaminated and is suitable for residential development.

SEPP (Rural Lands) 2008

The land is not used for agriculture and is highly unlikely to be used for agriculture because of its size, location and characteristics. The land adjoins residential land and the proposal is consistent with Rural Planning Principles and Rural Subdivision Principles.

Minister's s117 Directions

1.2 Rural Zones

Comment: The draft LEP is inconsistent with this direction because it rezones land from RU2 Rural Landscape to R3 Medium Density Residential. The inconsistency is justified by the Lower Hunter Regional Strategy (LHRS) and the endorsed City Wide Settlement Strategy 2003.

1.5 Rural Lands

Comment: The draft LEP is inconsistent with this direction because it affects land within a rural zone. The inconsistency is justified by the Lower Hunter Regional Strategy (LHRS) and the endorsed City Wide Settlement Strategy 2003.

2.1 Environment Protection Zones

Comment: The preliminary desktop ecological assessment dated Feb 2014 advises that the site is predominantly cleared but contains some minor areas of Lower Hunter Spotted Gum Ironbark Forest, which is listed as an endangered ecological community under the Threatened Species Conservation Act 1995. Consultation with OEH is required to determine consistency with this Direction.

2.3 Heritage Conservation

Comment: An archaeological assessment has been undertaken for this locality which concluded there were no items of significance on the subject site. The draft LEP is consistent with this direction.

3.1 Residential Zones

Comment: The proposed R3 Medium Density Residential zone permits a wider range of dwelling types. The subject land will be connected to reticulated sewer, reticulated water, electricity & telecommunication. The draft LEP is consistent with this direction.

3.4 Integrating Land Use and Transport

Comment: The draft LEP is consistent with this direction. The development will take advantage of existing infrastructure and services.

4.2 Mine Subsidence and Unstable Land

Comment: The Mine Subsidence Board on 25 March 2010 advised that this part of the

Cessnock LEP 2011 - R3 Medium Density Residential (forms part of the Cessnock Civic Precinct) - James Street, Cessnock

Cessnock Civic Precinct has never been undermined and the site has no restrictions to buildings with respect to mine subsidence. No further consultation is considered necessary.

4.3 Flood Prone Land: The flood impact assessment undertaken for the site indicates that the majority of the site is above the 1:100 year flood level. Council advises that its draft flood maps identify additional areas subject to flooding, which may affect some of the proposed residential allotments. Council needs to address this S117 Direction and determine consistency.

4.4 Planning for Bushfire Protection

Comment: Council needs to consult with the NSW Rural Fire Service before undertaking community consultation to satisfy the requirements of Direction 4.4 Planning for Bushfire Protection.

5.1 Implementation of Regional Strategies

Comment: The Lower Hunter Regional Strategy (LHRS) and Council's City Wide Settlement Strategy (CCWSS) (2010) identifies the subject land as a potential urban area. The proposal is consistent with this S117 Direction.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : The planning proposal should be exhibited for a minimum of 14 days, given it is minor in nature.

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The SI LEP was published on 23 December 2011

Assessment Criteria

Need for planning proposal :

Yes. The preparation of a Planning Proposal is the most appropriate mechanism to investigate whether the subject land should be rezoned.

Cessnock LEP 2011 - R3 Medium Density Residential (forms part of the Cessnock Civic Precinct) - James Street, Cessnock

Consistency with strategic planning framework :

The Lower Hunter Regional Strategy (LHRS) and Council's City Wide Settlement Strategy (CCWSS) (2010) identify the subject land as a potential urban area.

The Planning Proposal will contribute to the implementation of the housing targets identified in the LHRS by providing additional housing opportunities in the proposed R3 Medium Density Residential zone.

The Department endorsed the City Wide Settlement Strategy 2003 (CWSS). The CWSS identifies the subject site as having potential for increased development opportunities.

Environmental social economic impacts :

Environmental Impacts

Areas of high conservation value have already been zoned E2 Environmental Conservation. The site is predominantly cleared but contains some minor areas of Lower Hunter Spotted Gum Ironbark Forest, which is listed as an endangered ecological community (EEC) under the Threatened Species Conservation Act 1995. Consultation with OEH will determine whether an environmental biodiversity offset is required.

Social and Economic Impacts

Social and economic impacts are considered to be positive through the provision of additional housing opportunities in proximity to existing services and infrastructure.

Assessment Process

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

Timeframe to make LEP : **9 months** Delegation : **RPA**

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

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. :

If Other, provide reasons :

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 : **The draft State infrastructure map does not identify the subject land as an urban release area (URA). The growth infrastructure team on the 14 May 2014 advised that the subject land does not need to be mapped as a URA.**

Documents

Cessnock LEP 2011 - R3 Medium Density Residential (forms part of the Cessnock Civic Precinct) - James Street, Cessnock

Document File Name	DocumentType Name	Is Public
Planning Proposal - James Street Cessnock.pdf	Proposal	Yes
Mine Subsidence advice Cessnock.pdf	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
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.2 Mine Subsidence and Unstable Land
- 4.3 Flood Prone 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 and Council be given the Minister's plan making delegations.

2. 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).

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

- NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
- Office of Environment and Heritage

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.

4. The Director General (or delegate) approves the minor inconsistencies with the Minister's S117 Direction 1.2 Rural Zones and 1.5 Rural Lands because the inconsistencies are justified by the Lower Hunter Regional Strategy and the endorsed City Wide Settlement Strategy 2003. Council should be advised to address the Minister's S117 Direction 2.1 Environment Protection Zones and Direction 4.3 Flood Prone Land and if required obtain relevant approvals.

5. 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.

10. The timeframe for completing the LEP is 9 months from the date of the Gateway Determination.

Supporting Reasons :

Cessnock LEP 2011 - R3 Medium Density Residential (forms part of the Cessnock Civic Precinct) - James Street, Cessnock

Signature:



Printed Name:

K-O'FLAHERTY

Date:

3/6/14