

Amend Newcastle LEP 2012 to rezone land from E4 Environmental Living to pt R2 Residential and pt E2 Environmental Conservation at No.505 Minmi Road, Fletcher

Proposal Title : Amend Newcastle LEP 2012 to rezone land from E4 Environmental Living to pt R2 Residential and pt E2 Environmental Conservation at No.505 Minmi Road, Fletcher

Proposal Summary : The Planning Proposal will investigate the appropriateness of rezoning the land from E4 Environmental Living to part R2 Low Density Residential and part E2 Environmental Conservation under the Newcastle Local Environmental Plan 2012. The PP adjoins and will permit the expansion of the existing residential area.

The land has a total area of 26.4ha, and it is proposed to create approximately 110 residential allotments. Approximately 12ha of the site, which contains significant vegetation, will be rezoned to E2 Environmental Conservation.

PP Number : PP_2013_NEWCA_001_00 **Dop File No :** 09/04973

Proposal Details

Date Planning Proposal Received :	15-Jan-2013	LGA covered :	Newcastle
Region :	Hunter	RPA :	Newcastle City Council
State Electorate :	NEWCASTLE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	505 Minmi Road		
Suburb :	Fletcher	City :	Newcastle LGA
		Postcode :	2287
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 : Shannon Turkington
Contact Number : 0249742000
Contact Email : sturkington@ncc.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Amend Newcastle LEP 2012 to rezone land from E4 Environmental Living to pt R2 Residential and pt E2 Environmental Conservation at No.505 Minmi Road, Fletcher

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 :	0	Date of Release :	
Area of Release (Ha) :	26.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	110	No. of Dwellings (where relevant) :	110
Gross Floor Area :	0	No of Jobs Created :	20

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 original planning proposal (PP_2009_NEWCA_001_00) was not supported by the Gateway. Council was advised to consult with the Office of Environment and Heritage, the Catchment Management Authority and Rural Fire Service regarding possible environmental offsets and the maintenance of habitat corridors.**

The proponent has negotiated a combined onsite and offsite biodiversity conservation package to compensate for the proposed clearing. A planning or conservation agreement for the vegetation offsets needs to be signed by the Office of Environment and Heritage and the relevant parties before Council requests that the Minister makes the plan.

The RFS has raised concerns about the proposed subdivision layout and temporary western boundary asset protection zone, which adjoins the proposed Coal and Allied Major Project for 3300 residential allotments (MP_08/0125 and MP10/0090 Link Road North and South), which has been exhibited and is currently being assessed. Council verbally advises that the proponent has modified the subdivision layout and submitted further information. In the circumstances, further consultation with RFS in accordance with the Minister's S117 Direction before community consultation is appropriate.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The planning proposal aims to investigate the suitability of low density residential development, whilst protecting significant vegetation and habitat corridors.**

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

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

Comment : **The PP explains the details of the proposed LEP amendments. Council intends to apply the existing residential development standard controls for the portion of land being rezoned R2 Low Density Residential.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

2.3 Heritage Conservation

* May need the Director General's agreement

3.1 Residential Zones

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?

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

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 :

Assessment of relevant SEPPs and S117 Directions:-

SEPP No 44—Koala Habitat Protection

Comment: No Koalas were recorded in the study area. Limited habitat is available on the site.

SEPP No 55—Remediation of Land

Comment: Contamination report required.

SEPP (Infrastructure) 2007

Comment: Relevant for future land uses.

Minister's s117 Directions

1.3 Mining, Petroleum Production and Extractive Industries

Comment: The PP is not inconsistent with this S117 Direction because the subject land has previously been coal mined. Further consultation with the Department of Primary Industries is not required.

2.1 Environment Protection Zones

Comment: The PP is consistent with this S117 Direction. 12 hectares (45%) of the site is proposed to be rezoned E2 Environmental Conservation to ensure the land is protected, improved and maintained in perpetuity for conservation purposes. In addition, an offsite offset at Stroud of 68.5 hectare has been negotiated with the Office of Environment and Heritage.

2.3 Heritage Conservation

Comment: The PP needs to address this S117 Direction. An archaeological assessment of the site was undertaken in 2003, which identified the potential for high concentrations of artefacts to occur along the unnamed drainage channel that runs through the south west corner of the study area. An updated Aboriginal study is required.

3.1 Residential Zones

Comment: The PP is consistent with this S117 Direction. Council intends to apply the existing residential development standard controls for the portion of land being rezoned R2 Low Density Residential.

3.4 Integrating Land Use and Transport

**Amend Newcastle LEP 2012 to rezone land from E4 Environmental Living to pt R2
Residential and pt E2 Environmental Conservation at No.505 Minmi Road, Fletcher**

Comment: The PP is consistent with this S117 Direction. The proposed rezoning adjoins an existing residential area and will have access to nearby community facilities.

4.2 Mine Subsidence and Unstable Land

Comment: The PP needs to address this S117 Direction. Council advises that the Mine Subsidence Board (MSB) has indicated that the site has been undermined around the south/eastern boundary of the property and would oppose any development in this location. It is understood that no development is proposed in this area. Council should reconsult MSB with the current subdivision layout.

4.4 Planning for Bushfire Protection

Comment: The PP needs to address this S117 Direction. The RFS has raised concerns about the proposed subdivision layout and temporary western boundary asset protection zone. Further consultation with RFS in accordance with the Minister's S117 Direction before community consultation is appropriate.

5.1 Implementation of Regional Strategies

Comment: The PP is consistent with the LHRS and this S117 Direction. The Lower Hunter Regional Strategy and the Newcastle-Lake Macquarie Western Corridor Planning Strategy (2010) identifies this locality as a residential investigation area.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The draft LEP maps included with the PP are considered adequate for public exhibition purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Recommend a minimum of 28 days. This will give the community sufficient time to review the planning proposal and consider the biodiversity offset package. When the draft VPA is finalised, it will also need to be exhibited for 28 days.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : A planning or conservation agreement for the biodiversity offset package shall be signed by the Office of Environment and Heritage and the relevant parties before Council requests that the Minister makes the plan.

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 : **SI LEP completed**

Assessment Criteria

Need for planning proposal : **Yes. The preparation of a Planning Proposal is the most appropriate mechanism to investigate whether the subject land is suitable to be rezoned part Residential and part Environmental Conservation.**

Amend Newcastle LEP 2012 to rezone land from E4 Environmental Living to pt R2 Residential and pt E2 Environmental Conservation at No.505 Minmi Road, Fletcher

Consistency with strategic planning framework :

The Lower Hunter Regional Strategy projects an additional 5800 dwellings within the new release areas of the Newcastle Local Government Area. The dwellings will be accommodated within Blue Gum Hills (Minmi, Maryland and Fletcher), Elernmore Vale and Wallsend.

The Lower Hunter Regional Strategy and the Newcastle-Lake Macquarie Western Corridor Planning Strategy (2010) identifies this locality as a residential investigation area.

Council's local strategies, Maryland Minmi Structure Plan (1994) and Maryland Integrated Local Area Plan (1996) identify the subject land as having potential for urban development. The Blue Gum Hills release area has developed generally in accordance with these strategies over the last 10-15 years.

Also, the site is bound to the north and east by residential development and a concept plan for a 3,300 lot residential subdivision (MP_ 08/0125 and MP10/0090 Link Road North and South) is currently being assessed under the former part 3A of the Environmental Planning and Assessment Act 1979 for the land to the south and west.

Environmental social economic impacts :

Environmental Impacts

The proposed residential rezoning will require the clearance of native vegetation. OEH and Council have supported in principle the proposed biodiversity conservation package, which compensates for the proposed clearing. The biodiversity conservation package involves rezoning 12 hectares (45%) of the site to E2 Environmental Conservation and providing an offsite offset at Stroud of 68.5 hectare. A planning or conservation agreement is required to ensure the land is protected, improved and maintained in perpetuity for conservation purposes.

Social and Economic Impacts

The planning proposal should have a net community benefit by increasing the supply of zoned residential land in close proximity to existing services. Importantly, the biodiversity conservation package compensates for the required clearing.

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
Mine Subsidence Board
NSW Rural Fire Service**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Council and the proponent have consulted with the Office of Environment and Heritage, the Catchment Management Authority and Rural Fire Service to provide guidance in order to resolve the required environmental offsets. Further consultation with RFS is recommended to provide comments about the revised subdivision layout.**

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

If Yes, reasons :

Identify any additional studies, if required. :

Heritage

Amend Newcastle LEP 2012 to rezone land from E4 Environmental Living to pt R2 Residential and pt E2 Environmental Conservation at No.505 Minmi Road, Fletcher

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? **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
Newcastle Planning Proposal No.505 Minmi Rd.pdf	Proposal	Yes
OEH, RFS, CMA & HWC comments.pdf	Determination Document	Yes
Covering Letter and resolution.pdf	Proposal	Yes
URA concurrence.docx	Determination Document	Yes

Planning Team Recommendation

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

S.117 directions: **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
4.4 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 Director-General's delegations.**
- 2. Consult with the NSW Rural Fire Service before undertaking community consultation to address the requirements of the Minister's S117 Direction 4.4 Planning for Bushfire Protection.**
- 3. Council be required to address SEPP 55 in the Planning Proposal and prepare a contamination report. The contamination report shall be exhibited with the Planning Proposal.**
- 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 and provide required public utility infrastructure.**
- 5. Council require the preparation of an aboriginal heritage study in accordance with current guidelines on assessing aboriginal cultural heritage. It should also address the requirements of the Minister's S117 Direction 2.3 to ensure the conservation of aboriginal objects and places, which may exist along the unnamed drainage channel that runs through the south west corner of the study area.**
- 6. 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**

**Amend Newcastle LEP 2012 to rezone land from E4 Environmental Living to pt R2
Residential and pt E2 Environmental Conservation at No.505 Minmi Road, Fletcher**

(Department for Planning 2009).

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

- NSW Aboriginal Land Council
- Office of Environment and Heritage
- Mine Subsidence Board

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.

8. A planning or conservation agreement for the biodiversity offset package shall be signed by the Office of Environment and Heritage and the relevant parties before Council requests that the Minister makes the plan.

9. 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 12 months from the date of the Gateway Determination.

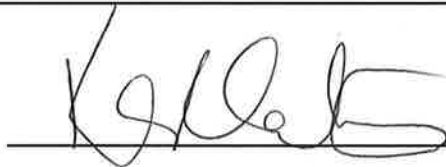
Supporting Reasons :

Delegations:

Council resolved to accept the Department's delegations however does not want to use these delegations for this planning proposal. Notwithstanding it is recommended that Council be given the delegations because the planning proposal is consistent with the Lower Hunter Regional Strategy and the Office of Environment and Heritage has agreed in principal to the environmental conservation package. Furthermore, Council is more than capable to address the S117 Directions and resolve any issues raised by the community, Rural Fire Service or the Mine Subsidence Board.

The proponent has negotiated a biodiversity conservation package to compensate for the proposed clearing. A planning or conservation agreement for the vegetation offsets needs to be signed by the Office of Environment and Heritage and the relevant parties before Council requests that the Minister makes the plan.

Signature:



Printed Name:

K. O'FLAHERTY

Date:

31-1-13