

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**

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 (Department for Planning 2009).**

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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.

Panel Recommendation

Recommendation Date : **07-Feb-2013**

Gateway Recommendation : **Passed with Conditions**

Panel Recommendation :

The Planning Proposal should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to amend the planning proposal to identify the subject site as an Urban Release Area and adopt the department's model clauses 6.1 - Arrangements for designated State public infrastructure, 6.2 - Public utility infrastructure, 6.3 - Development control plan and 6.4 - Relationship between part and remainder of plan.
2. Prior to undertaking public exhibition, Council is to amend the planning proposal to include sufficient information regarding the impacts of the proposal on Aboriginal heritage. This information is to address the proposal's consistency or justify any inconsistency with S117 Direction 2.3 Heritage Conservation and should address the conservation of Aboriginal objects and places which may exist along the unnamed drainage channel.
3. Council is to consult with the Mine Subsidence Board regarding the amended subdivision layout as per the requirements of S117 Direction 4.2 Mine Subsidence and Unstable Land and amend the planning proposal, if necessary to take into consideration any comments made prior to undertaking public exhibition.

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4. Council is to consult with the NSW Rural Fire Services as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary, to take into consideration any comments made prior to undertaking public exhibition.

5. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land. Council is to prepare an initial site contamination investigation report 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.

6. 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 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2012).

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

- NSW Rural Fire Service
- NSW Aboriginal Lands 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.

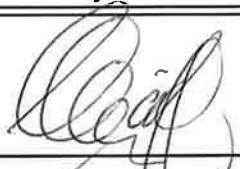
8. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

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

Signature: _____

Printed Name: _____

Date: _____


West McCaffin
12.2.13