

Amendment to Cessnock LEP 2011 - 12m building height 'Cessnock Civic' Vincent St

Proposal Title : **Amendment to Cessnock LEP 2011 - 12m building height 'Cessnock Civic' Vincent St**

Proposal Summary : **The Planning Proposal aims to place a 12 metre maximum building height control on land zoned B7 Business Park at 'Cessnock Civic' site in Vincent Street, Cessnock.**

PP Number : **PP_2011_CESSN_006_00**

Dop File No : **11/18030**

Proposal Details

Date Planning : **04-Oct-2011**

LGA covered : **Cessnock**

Proposal Received :

Region : **Hunter**

RPA : **Cessnock City Council**

State Electorate : **CESSNOCK**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street : **Vincent**

Suburb :

City : **Cessnock**

Postcode : **2325**

Land Parcel : **Lot 251 DP 606348, Lot 21 & 22 DP 845986, Pt Lot 23 DP 845986, Pt Lot 1 DP 1036300, Lot 1-3 DP 608084 Land to be zoned B7 Business Park**

DoP Planning Officer Contact Details

Contact Name : **Susan Blake**

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RPA Contact Details

Contact Name : **Bo Moshage**

Contact Number : **0249934100**

Contact Email : **council@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 : **Lower Hunter Regional**

Consistent with Strategy : **Yes**

Regional Strategy : **Strategy**

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MDP Number :	Date of Release :	
Area of Release (Ha)	Type of Release (eg Residential / Employment land) :	N/A
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 : **To date, all dealings with this PP have adhered to the Lobbyist Code of Conduct. There have been no meetings/communications with lobbyists regarding this proposal.**

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

If Yes, comment :

Supporting notes

Internal Supporting Notes : The Cessnock Civic Planning Proposal PP_2010_CESS_003_00 referred to in this report commenced in 2004 and has had a lengthy history complicated due to mine subsidence and environmental issues on the site. Consideration of the final proposal by the Cessnock Planning Panel resulted in a number of post-exhibition amendments including the limitation of the proposed business zone to the least environmentally sensitive portion of the site and introduction of a building height limitation. Due to a level of ambiguity regarding the implications of post-exhibition changes, Council requested the Department's advice on the matter via email to the Regional Director on 4 July 2011. In particular Council and the Department were concerned about the implication of the introduction of a height limitation post exhibition. With the assistance of Legal Branch and in consultation with the Executive Director Planning Operations, the Department advised that, although the issue of re-exhibition was one for the relevant planning authority (Council/ Planning Panel) to consider, the introduction of a height limitation may be considered to warrant re-exhibition.

Council has advised that re-exhibition of the Cessnock Civic proposal would trigger a re-assessment of the financial support for the proposal and potential loss of the anchor business identified for the site.

Upon reconsideration of the matter the Cessnock Planning Panel resolved, at its meeting on 15 September 2011 - Report No PPEE50/2011, to proceed to finalise the Cessnock Civic proposal and introduce the height limitation through a separate Planning Proposal.

This Planning Proposal seeks to amend the Cessnock LEP 2011 and apply to the land zoned in the Cessnock Civic amendment to the Cessnock LEP 2011.

The Regional Team appreciates that the Gateway's consideration of a planning proposal that relies upon the gazettal of a comprehensive LEP and an earlier planning proposal is unusual. However it is considered that the circumstances in this case make such an approach necessary.

External Supporting Notes : This Planning Proposal seeks to amend the Cessnock LEP 2011 and apply to the zones as implemented in the Cessnock Civic amendment to the Cessnock LEP 2011. The 'Cessnock Civic' planning proposal (PP_2010_CESS_003_00) referred to in this report has been publicly exhibited and was supported by the Cessnock Planning Panel on 15 September 2011 for submission to the Department of Planning and Infrastructure to make the plan.

Adequacy Assessment

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

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

Comment : **The statement of objectives satisfactorily outlines the intended outcome of the Planning Proposal (PP) ie. to amend the Cessnock LEP 2011, to enable a 12 metre building height limit over lands proposed to be zoned B7 Business Park in 'Cessnock Civic' Vincent Street, Cessnock.**

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

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

Comment : **This PP will be an amendment to the Cessnock LEP 2011. The PP will amend the Height of Buildings Map to show the subject land zoned B7 Business Park being Lot 251 DP 606348, Lot 21 & 22 DP 845986, Pt Lot 23 DP 845986, Pt Lot 1 DP 1036300, Lot 1-3 DP 608084 with a 12 metre maximum building height.**

This LEP amendment aims to resolve concerns raised in submissions received from a prior PP that rezoned the Cessnock Civic area - PP_2010_CESSN_003_00. Council has determined that a control of the building height requires a separate PP to amend the outcomes of the original Cessnock Civic PP.

Submissions received during exhibition of the Cessnock Civic PP, raised concerns regarding the impact of the potential future development on the adjoining residential amenity. Although a Development Control Plan will assist with protecting the residential amenity of surrounding land, the Cessnock Planning Panel resolved that a 12 metre maximum building height over the B7 zoned land would assist to limit the visual scale of development and reduce impacts on the amenity and adjoining streetscape.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA : **1.1 Business and Industrial Zones**

* May need the Director General's agreement **6.3 Site Specific Provisions**

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 :

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 : **Council has provided a locality plan and a building height map identifying the site, zone and controls for the land.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The proposal is a relatively minor matter being a 'low impact' proposal, as indicated in**

the Guide to Preparing LEPs (Department of Planning 2009). The Regional Team recommends a 14 day public exhibition period.

Additional Director General's requirements

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

If Yes, reasons : **The PP is consistent with s117 Directions except 1.1 Business and Industrial Zones and 6.3 Site Specific Provisions, which are addressed below.**

In assessing this PP consideration has been given to s117 Direction 4.2 Mine Subsidence and Unstable Land and 4.3 Flood Prone Land. The prior PP that rezoned the Cessnock Civic area - PP_2010_CESSN_003_00 addressed these matters. This PP only seeks to amend a building height standard, and mine subsidence and flooding would be subject to further assessment as part of the future development application on the site.

Direction 1.1 Business and Industrial Zones

The Council identified that the PP is consistent with this Direction, however the PP could be considered inconsistent to a minor extent. In accordance with cl. 4(c) a PP must not reduce the total potential floor space area for employment uses and related public services in business zones.

The introduction of a height limit may be considered a limit on the floor space. Council has identified that the site requires a 12 metre maximum building height to limit the visual scale of development and reduce impacts on the amenity and adjoining streetscape.

The proposed building height is consistent with the adjoining Cessnock CBD building height limit of 12 metres which is included in draft Cessnock LEP 2011. No taller building heights have been identified in the draft Cessnock LEP 2011.

Consequently, the Director-General (DG) or his delegate may agree under cl.5(d) of this Direction that the provisions of the PP that are inconsistent are of minor significance.

Direction 6.3 Site Specific Provisions

The Council identified that the PP is consistent with this Direction, however the PP could be considered inconsistent to a minor extent. In accordance with cl.4(c) a PP that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must allow the land use on the relevant land without imposing and development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.

As this amendment will alter Cessnock LEP 2011, the PP proposes to impose a maximum building height control via the Building Height Map over the B7 zone within the Cessnock Civic site. It is a new control for this site, but consistent with controls for other business areas. As indicated above, this measure has been proposed to provide resolution of resident and public concerns over the proposed future development of the subject land.

Consequently, the Director-General (DG), or his delegate, may agree under cl. 6 of this Direction that the provisions of the PP that are inconsistent are of minor significance.

Overall adequacy of the proposal

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

If No, comment : **Sufficient information has been provided to assess the proposal in preparation of the gateway determination.**

The Gateway should determine that references to the Cessnock LEP 1989 be removed prior to exhibition to limit confusion, as this PP will be an amendment to Cessnock LEP 2011.

Proposal Assessment

Principal LEP:

Due Date : **October 2011**

Comments in relation to Principal LEP : The Principal Plan known as Cessnock LEP 2011 is reaching the final processes to be made.

This PP aims to amend the Building Height Map in the proposed B7 Business Park zone on the subject land. The zone and building height limits and associated maps are elements of the Principal Plan and are not in Cessnock LEP 1989. Consequently, due to the publication time-frame of Cessnock LEP 2011, this PP will be an amendment to the Principal LEP, not Cessnock LEP 1989.

Assessment Criteria

Need for planning proposal :

Cessnock City Council has identified the subject land as B7 Business Park to meet the future employment and business needs of Cessnock and surrounding regions.

As indicated previously, this PP aims to resolve concerns raised in submissions received from a prior PP that rezoned the Cessnock Civic area - PP_2010_CESSN_003_00.

Submissions received during exhibition of the Cessnock Civic PP raised concerns regarding the impact of the potential future development on their residential amenity. Although a Development Control Plan will assist with protecting the residential amenity of surrounding land, the Cessnock Planning Panel resolved that a 12 metre maximum building height over the B7 zoned land would assist to limit the visual scale of development and reduce impacts on the amenity and adjoining streetscape. This building height limit is also consistent with other business zones in Cessnock.

Consistency with strategic planning framework :

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy 2006 identifies the Cessnock City Centre as a major regional centre. The subject land of this PP is too small to identify individually within the strategy. However, the development of the Cessnock Civic site seeks to increase economic activity and employment in the Cessnock centre which are consistent with the aims and objectives of the Lower Hunter Regional Strategy.

Council's Community Strategic Plan - Our People, Our Place, Focus on Our Future

The PP assists with implementation of:

Objective 2.1 - Diversifying Local Business options; and

Objective 2.2 - Achieving More Sustainable Employment Opportunities.

Cessnock City Wide Settlement Strategy

The development of the Cessnock Civic area is identified as an action in the Cessnock City Wide Settlement Strategy.

Environmental social economic impacts :

The PP aims to appropriately resolve concerns from the public regarding the proposed development intensity on the land and impact on the amenity of the surrounding locality.

The limit on building height is likely to have some economic impact as it provides a constraint on development. However, given that the site is limited to some extent by mine subsidence, a constrained building height already exists. It is not considered that this PP places an unreasonable economic impact on the site.

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Assessment Process

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

Timeframe to make LEP : **6 Month** Delegation : **DDG**

Public Authority
Consultation - 56(2)(d)
:

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 :

Documents

Document File Name	DocumentType Name	Is Public
Planning_Proposal_Building_Height_Controls_Cessnock_Civic.pdf	Proposal	Yes
Council_Letter_23_Sept_2011.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
6.3 Site Specific Provisions

Additional Information : **The Planning Proposal should proceed subject to the following conditions:**

1. References to Cessnock Local Environmental Plan 1989 should be removed from the Planning Proposal prior to public exhibition, to limit confusion as this Planning Proposal will be an amendment to Cessnock LEP 2011.

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

(a) the planning proposal is classified as low impact as described in a Guide to Preparing

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LEPs (Department of Planning 2009) and must be publicly available for 14 days; and
(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications and materials that must be made publicly available along with planning proposals as identified in section 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).

3. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.

4. The time frame for completing the LEP is 6 months from the week following the date of the Gateway Determination.

5. The DG (or delegate) agrees to the inconsistencies with section 117 Direction 1.1 Business and Industrial Zones and 6.3 Site Specific Provisions, as the inconsistencies are of minor significance.

Supporting Reasons :

This LEP amendment aims to resolve concerns raised in submissions received from a prior PP that rezoned the Cessnock Civic area - PP_2010_CESSN_003_00.

This PP is an amendment to Cessnock LEP 2011, therefore reference to the present LEP is to be removed.

Signature:



Printed Name:

Monica Gibson

Date:

24 October 2011