

**OUR NATURAL, DEVELOPED AND CULTURAL ENVIRONMENT NO.
PPEE1/2012**

**SUBJECT: PLANNING PROPOSAL CESSNOCK CIVIC 12 METRE HEIGHT LIMIT
AND MINIMUM LOT SIZE**

MOTION **Moved:** Tim Rogers **Seconded:** Alison McCabe
PP1811
RESOLVED

The Planning Panel resolve to:

1. Submit to the Department of Planning and Infrastructure for finalisation the Planning Proposal to amend the Height of Buildings map of the Cessnock Local Environmental Plan 2011 by applying 12m height limit to land zoned B7 Business Park at Cessnock Civic, shown in the map at **Figure 1**.

2. Submit to the Department of Planning and Infrastructure for a gateway determination a Planning Proposal to:-
 - (a) amend the Lot Size map of the Cessnock Local Environmental Plan 2011 by deleting the minimum lot size applying to land zoned B7 Business Park at Cessnock Civic shown in the map at **Figure 1**.

 - (b) include an additional clause in the Plan to provide more flexibility in the minimum lot size for split zoned lots which include an E2 or E3 zone.

3. The reasons and justification for part (b) of resolution 2 are found in Item 2 on this agenda which contained a draft of this proposed provision.

FOR	AGAINST
Tim Rogers	
Alison McCabe	
Total (2)	Total (0)

CARRIED UNANIMOUSLY



SUBJECT: *PLANNING PROPOSAL CESSNOCK CIVIC 12 METRE HEIGHT LIMIT AND MINIMUM LOT SIZE*

AUTHOR: *Strategic Landuse Planner - Scott Christie*

SUMMARY

The purpose of this Report is:

1. To seek the Planning Panel's approval to finalise a Planning Proposal for a 12 metre building height limit over those lands zoned B7 Business Park at Cessnock Civic. The 12m building height limit seeks to maintain the amenity of nearby residential areas. The Planning Proposal has been placed on exhibition and one submission was received.
2. To seek the Planning Panel's approval to submit a Planning Proposal to the Department of Planning and Infrastructure to delete the minimum lot size restriction applying to those lands zoned B7 Business Park at Cessnock Civic. A minimum lot size was placed on the land because of an administrative error in the finalisation of the Cessnock Local Environmental Plan 2011.

RECOMMENDATION

It is recommended that the Planning Panel resolve to:

1. **Submit to the Department of Planning and Infrastructure for finalisation the Planning Proposal to amend the Height of Buildings map of the Cessnock Local Environmental Plan 2011 by applying 12m height limit to land zoned B7 Business Park at Cessnock Civic shown in the map at Figure 1.**
2. **Submit to the Department of Planning and Infrastructure for a gateway determination a Planning Proposal to amend the Lot Size map of the Cessnock Local Environmental Plan 2011 by deleting the minimum lot size applying to land zoned B7 Business Park at Cessnock Civic shown in the map at Figure 1.**

BACKGROUND

On 15 September 2011 the Planning Panel resolved to exhibit the 12 m height limit Planning Proposal. The Planning Proposal was initiated by the Planning Panel in response to nearby residents' amenity concerns resulting from the development of land now zoned B7 Business Park. These concerns were expressed in submissions made during the exhibition of a Planning Proposal to rezone the former Aberdare Extended Coal Mine from Rural 1(a) to B7 Business Park. The land has now been rezoned and the zoning map is shown at **Figure 1**.

On 23 December 2011 the Cessnock Local Environmental Plan 2011 was published. Unfortunately an administrative error was made when finalising the Lot Size Map contained within the Plan. This error placed a 40 hectare minimum lot size over the land, rather than the no minimum lot size requirement applying to the Cessnock City Centre. Despite this

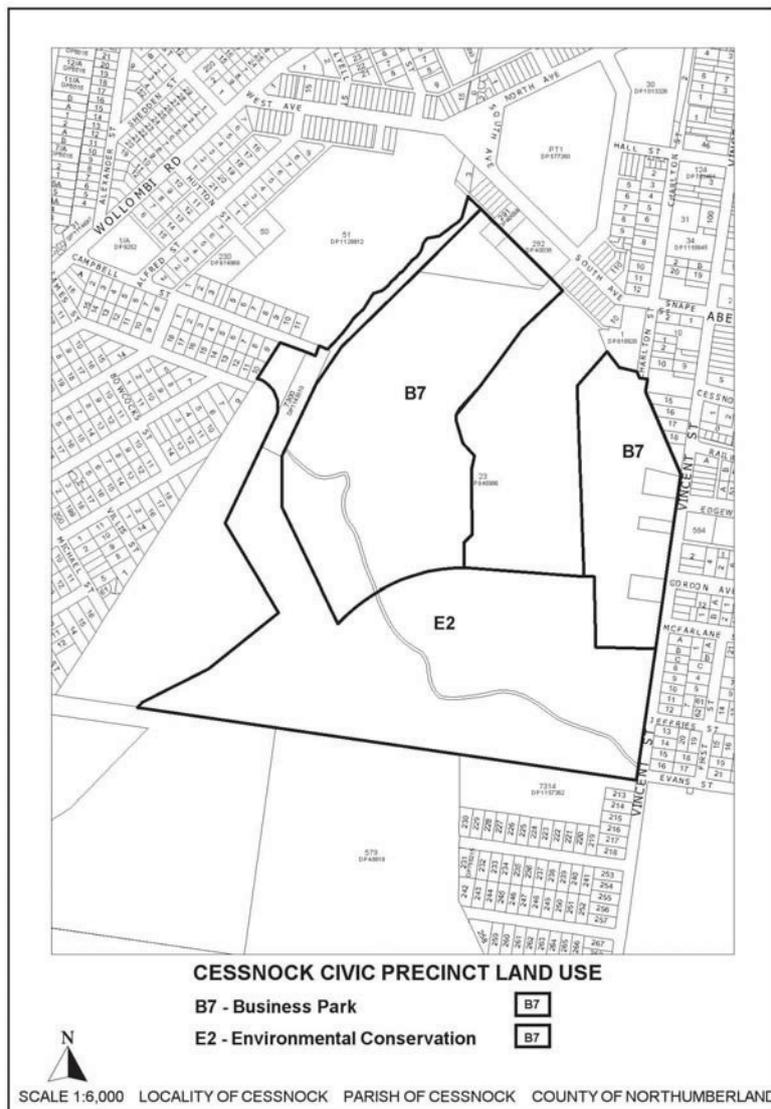


error being administrative, the Department of Planning and Infrastructure requires a Planning Proposal from Council to correct it.

REPORT/PROPOSAL

The proposed 12 m building height limit is consistent with the height limit applying to the Cessnock City Centre. A maximum building height of 12 metres aims to protect the amenity of residences along Vincent Street in conjunction with other measures (such as landscaping and building setbacks) contained in the draft Development Control Plan proposed for the area.

Figure 1: Zoning Map, Cessnock Civic



Our Natural, Developed and Cultural Environment

Report No. PPEE1/2012

Strategy and Sustainability



It is considered that a 12 metre height limit will assist in maintaining the amenity of nearby residents, and will not unreasonably constrain development on the land or unduly affect the economic viability of development on the land.

Enclosure 2 details the Planning Proposal in relation to the minimum lot size, a Planning Proposal is proposed to correct an administrative error in the finalisation of the Cessnock Local Environmental Plan 2011 and reflects the policy settings previously agreed by Council and the Planning Panel.

OPTIONS

In relation to the 12 metre building height limit, the Planning Panel could:

1. Seek to apply a different building height. This would probably require re-exhibition of the Planning Proposal. A lower building height may have a significant impact on the viability of development on the subject land. A greater building height may not provide sufficient protection of the amenity of nearby residents.
2. Decline to apply a maximum building height to the subject land. This would mean that building height would be managed by general Section 79C considerations and by mine subsidence constraints (which indirectly limit building height and bulk).
3. Seek to apply a 12 m maximum building height to the subject land, as exhibited. This option is recommended by this Report.

In relation to the proposed Planning Proposal to delete the minimum lot size, the Planning Panel could:

1. Decline to change the published 40 hectare minimum lot size. Retaining this restriction has a significant impact on the ability to subdivide and develop the land. It would introduce considerable uncertainty because subdivision proposals would be dependent on Clause 4.6 (Exceptions to Development Standards) of the Cessnock Local Environmental Plan 2011 to obtain approval for lot sizes below 40 hectares.
2. Seek to apply a no minimum lot size, or one other than 40 hectares. This would result in a minimum lot size requirement inconsistent with the Cessnock City Centre and other industrial areas in Cessnock Local Government Area (which have no minimum lot size).
3. Seek to remove the minimum lot size applying to the B7 zoned land. This option is recommended by this Report.

CONSULTATION

The Planning Proposal relating to the 12 m height limit was placed on public exhibition from 7 to 21 December 2011. The Cessnock Local Environmental Plan 2011 has since been gazetted on 23 December 2011. As a consequence, the Planning Proposal has been updated to reflect the gazettal and can be found in Enclosure 1, below. Nearby property owners were notified in writing, and the exhibition was advertised in the Cessnock Advertiser in accordance with Council's notification policy. Copies of the Proposal were available for

Our Natural, Developed and Cultural Environment

Report No. PPEE1/2012

Strategy and Sustainability



viewing on Council's website, the Cessnock Library and the City Administration Centre. The owner of the subject land was also notified of the exhibition.

One submission was received. In summary, the submission stated that:

1. The proposed maximum building height was out of character with the existing surrounds;
2. Flooding was more likely once the site is developed, with a negative impact on Black Creek and sewerage systems;
3. Fencing of adjoining properties should be provided to prevent unlawful access;
4. Compensation and notification mechanisms should be put in place for future tenants and others in relation to mine subsidence risks.

In relation to #1, most buildings close to the subject land are single storey (maximum 3-4 metres) although some light industrial buildings and hotels are either single storey with high ceilings (and having a scale similar to a two storey building) or two storeys in height (maximum 6-8 metres). It is likely that many of the structures in the B7 Business Park zoned land will be similar in scale to the existing light industrial buildings nearby.

The proposed maximum building height of 12 m is the same as that applying to the Cessnock City Centre. The City Centre interfaces directly with predominately single storey built areas, and many buildings within the City Centre are single storey without building scale being disproportionate.

The submission refers to potential privacy intrusion (due to high buildings) affecting "areas adjoining the park and existing homes properties on the Cessnock West boundary". The B7 zoned land is over 80 metres from the nearest residential area to the west of the subject land. The B7 zoned land is also a minimum of 200 metres from the parkland to the south-west, and over 300 metres from the closest park to the west. There is Crown land zoned E2 Environmental Conservation on the west side of Black Creek that is some 80 metres from the B7 zoned land. It is considered that these distances, and the other controls contained in the draft Development Control Plan for the site (e.g. setbacks and landscaping) will be more than sufficient to reduce any privacy issues to acceptable levels.

Items #2, #3 and #4 (above), are not relevant to the 12m height limit Planning Proposal, but rather to the rezoning of the site to B7 Business Park (which is now finalised in the Cessnock Local Environmental Plan 2011) and the draft Development Control Plan for the site (which is being finalised).

In relation to the proposed Planning Proposal to delete the minimum lot size, it is recommended that the Department of Planning and Infrastructure is requested to require no public exhibition of that Planning Proposal because it reflects existing policy settings and corrects an administrative error.



STRATEGIC LINKS

a. Delivery Program

N/A

b. Other Plans

The development of Cessnock Civic is consistent with the City Wide Settlement Strategy and the Cessnock Local Environmental Plan 2011.

IMPLICATIONS

a. Policy and Procedural Implications

In relation to the 12 metre maximum building height, following the Planning Panel's endorsement the Planning Proposal will be submitted to the Department of Planning and Infrastructure for finalisation.

In relation to the minimum lot size, following the Planning Panel's endorsement the Planning Proposal will be submitted to the Department of Planning and Infrastructure for a gateway determination

b. Financial Implications

N/A

c. Legislative Implications

The Report is consistent with Council's obligations under the Environmental Planning and Assessment Act, 1979, as amended.

d. Risk Implications

It is considered that there are minimal risk implications arising from the recommendation of this Report.

A 12 m building height limit will reduce the risk of development adversely affecting the amenity of residents. It is very unlikely that the building height limit will adversely affect the viability of development on the subject land. The Proposal has followed the administrative procedures set out in legislation and Council policy and accordingly it is considered there is no administrative process related risks.

In relation to the proposed Planning Proposal to delete the minimum lot size restriction, there are minimal risk implications because it seeks to correct an administrative error.

e. Other Implications

Nil

Our Natural, Developed and Cultural Environment

Report No. PPEE1/2012

Strategy and Sustainability



CONCLUSION

The proposed building height limit will assist in managing building heights in order to protect the amenity of nearby residents. One objection has been received for the Proposal, and it is considered that the concerns of this objector in relation to the privacy and amenity impacts of future development are very unlikely to arise because of the distances from the B7 zoned land to nearby residences and parkland, and because of the other development controls that are proposed to apply to development on the B7 zoned land.

The proposed Planning Proposal to remove the minimum lot size restriction on the B7 zoned land seeks to correct an administrative error and to restore the consistency of the Cessnock Local Environmental Plan 2011 with Council's existing policy settings.

ENCLOSURES

- [1](#) Planning Proposal - Building Height Controls for Cessnock Civic 39 Pages
- [2](#) Planning Proposal - Lot Size Controls for Cessnock Civic 15 Pages