

Newcastle LEP 2012 - Newcastle Eye Hospital, Waratah

Proposal Title : **Newcastle LEP 2012 - Newcastle Eye Hospital, Waratah**

Proposal Summary : **The proposal seeks to amend Newcastle LEP 2012, Schedule 1 - Additional Permitted Uses to enable 'health services facility' to be permitted on nine lots on the corner of Christo Road, Waratah and Griffiths Road, Lambton. The proposal will also amend the Height of Building Map on part of the subject land from 8.5m to have a maximum permissible height of 10m. This proposal will facilitate the expansion to the existing Newcastle Eye Hospital facility.**

PP Number : **PP_2015_NEWCA_002_00** Dop File No : **15/05578**

Proposal Details

Date Planning Proposal Received :	27-Apr-2015	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 :	174-182 Christo Road		
Suburb :	Waratah	City :	Waratah
		Postcode :	
Land Parcel :	R2 Low Density Residential Zone - Lots 2,3 & 4, DP 21366, Lot 7, DP 660745, Lot 8, DP 660746, Lots 1 & 2 DP 1114442, and Lots 100 & 101 DP 569322		
Street :	114-116 Griffiths Road		
Suburb :	Lambton	City :	Lambton
		Postcode :	
Land Parcel :	R2 Low Density Residential Zone - Lots 2,3 & 4, DP 21366, Lot 7, DP 660745, Lot 8, DP 660746, Lots 1 & 2 DP 1114442, and Lots 100 & 101 DP 569322		

DoP Planning Officer Contact Details

Contact Name : **Susan Blake**
 Contact Number : **0249042700**
 Contact Email : **susan.blake@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Rob O'Brien**
 Contact Number : **0249742889**
 Contact Email : **robrien@newcastle.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
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.39	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 :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes : Council resolved at its meeting on 24 March 2015 to endorse and forward the planning proposal to the Department requesting a Gateway Determination pursuant to section 56 of the Environmental Planning and Assessment Act 1979.

Council submitted preliminary information on the 1 April 2015, noting that the applicant needed to pay Council fees prior to formally proceeding with the planning proposal.

Council provided its formal request to the Department to proceed with the planning proposal on 27 April 2015, it is this date that the proposal is considered adequate.

Council has advised the Department that it does not seek to exercise delegations for undertaking section 59(1) of the Environmental Planning and Assessment Act 1979.

External Supporting Notes : **Background to the proposal: Council Report 24 March 2015 (Item 25) Extract notes:**
 * On 31 October 2012 Council received a formal request from the Newcastle Eye Hospital (NEH) consultants to amend the Newcastle LEP 2012 to enable the expansion of the hospital. This request proposed to include health services facilities as permissible with consent within the existing R2 Low Density Residential zone.
 * Council did not support having the group term 'health services facility' as permissible within the R2 Low Density Residential zone. Council officers explored various options for enabling the NEH to expand their facility.
 * A Planning Proposal (PP_2013_NEWCA_010_00) was prepared to enable hospitals in the R2 zone without allowing other health services facilities such as medical centres, health consulting room etc.
 * Council received a pre DA application on 4 December 2013 including plans for expansion of the eye hospital. Council staff advised the NEH consultants that the plans did not appear to reflect 'hospital' as defined by the LEP but rather represented a health services facility as there was no overnight accommodation. Determining whether the proposal was a 'hospital' or 'medical facility' is a legal question for the consent authority and ultimately determined by the courts. Consent was issued for the building by Council in 1986 and Council considers that the proposed expansion cannot rely on existing use rights.

- * Amendment 5 to Newcastle LEP 2012 to permit 'hospitals' with consent in the R2 Low Density Residential Zone was published on 28 March 2014.
- * Council meet with NEH consultants on 26 June and 21 November 2014 to discuss further options to enable the expansion of the facility. Council and the consultants agreed to enabling 'health services facility' on the site with consent by using Schedule 1 - Additional Permitted Uses in Newcastle LEP 2012. This would restrict the term 'health services facility' to the hospital site not to the R2 Low Density Residential zone generally.
- * The request to enable the expansion of the NEH was considered by various Council panels. DA officers have confirmed that the proposal for expansion of the facility fits within the definition of health services facility.
- * Future expansion of the site remains restricted by the LEP/DCP requirements. Any proposed change of use of the premises would need a DA application.
- * Council resolved to proceed with the planning proposal and seek a Gateway Determination from the Department of Planning and Environment.

Adequacy Assessment

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

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

Comment : The objective of the planning proposal is to enable the expansion of the Newcastle Eye Hospital.

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

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

Comment : The proposal seeks to amend Newcastle LEP 2012 to:

1. Insert 'health services facility' as an additional permitted use in Schedule 1 for the subject site; and
2. Amend the Height of Buildings Map Sheet (HOB_004B) to reflect a change in the maximum height of buildings permissible on the land from 8.5m to 10m for part of the subject land only.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

2.1 Environment Protection Zones

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

5.1 Implementation of Regional Strategies

6.2 Reserving Land for Public Purposes

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?

SEPP No 44—Koala Habitat Protection

SEPP No 64—Advertising and Signage

SEPP (Infrastructure) 2007

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 : **Figure 1 & Figure 2 of the planning proposal show the existing and proposed map versions of HOB_004B - Height of Building Map within Newcastle LEP 2012.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council indicates the proposal is low impact and proposes a 14 day exhibition period in accordance with the Departments Guide to Preparing LEPs. This is supported.**

Additional Director General's requirements

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

If Yes, reasons : **Project Timeline**

Council's timeline nominates the planning proposal's completion within eight (8) months after the Gateway Determination. Consistent with the Guidelines it is considered that a nine (9) month completion timeframe is appropriate which requires the planning proposal to be completed by January 2016.

Delegation Authorisation

Council has accepted plan-making delegation for planning proposals generally. However Council does not seek to exercise delegations for this planning proposal because of the added impost on Council resources without any additional influence in the outcome. Therefore, it is recommended that authority to exercise delegations in this instance not be granted.

It is recommended that the General Manager of the Hunter and Central Coast Region exercise his delegations in this matter.

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 : **Newcastle LEP 2012 (Standard Instrument) was published on 15 June 2012.**

Assessment Criteria

Need for planning proposal : **1. Is the planning proposal a result of any strategic study or report?
Council advises that the planning proposal is driven by the need to expand medical services within the area, particularly to allow improvements and expansion of Newcastle Eye Hospital incorporating adjoining land.**

2. Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

The amendment to Schedule 1 - Additional Permitted Uses to enable 'health services facility' to be permitted on the subject site is considered the most suitable way of achieving the objectives and expansion of the Newcastle Eye Hospital. A 'health services facility' is otherwise a prohibited use within the R2 Low Density Residential zone.

Council has considered alternative options other than inclusion in Schedule 1:

- * Rezoning land to B4 Mixed Use. However this was considered unsuitable as B4 zoning is generally applied to land within the city centre, along the urban renewal corridors and sites adjacent to existing commercial centres.
- * Rezoning land to R3 Medium Density Residential. However this is considered unsuitable due to the distance from existing centres.
- * Include the term 'health services facility' as a permissible use within the R2 Low Density Residential zone. This is considered unsuitable as enabling health service facilities in residential areas would have greater city wide implications.
- * Relocation of the facility. This was not considered feasible given the facility has operated for 28 years and significant investment has been made in the existing building and equipment.
- * Lodge a DA for a 'hospital', as this is now permissible in the zone. Council's Building Services Division has previously formed the opinion that the proposed development is not defined as a 'hospital'.

Council has justified the amendment to the height of building map from 8.5m to 10m over part of the site for the following reasons:

- * The increase in height is required to support the necessary floor to ceiling heights for a health services facility and to ensure consistency of floor levels with the existing building.
- * The increased height is restricted to the Griffiths Road frontage of the site, generally away from the adjoining residential area.
- * Council proposes to adopt an appropriate setback consistent with typical residential building height envelopes to reduce impacts on neighbours.

It is considered that the planning proposal is the best means of facilitating the expansion of the Newcastle Eye Hospital.

3. Is there community benefit?

The planning proposal will enable the Newcastle Eye Hospital the ability to expand and make improvements to the existing facility and incorporate adjoining land. The DA process will enable any future expansion to be undertaken in a manner sensitive to the neighbouring residential properties.

The site is in close proximity to the nearby centres of Waratah and Lambton and the specialised centres of the John Hunter Hospital and University of Newcastle. The Calvary Mater Hospital and Maroba Aged Care Facility are located approximately 1km north of the site. The site is well located within the regional road network, has access to major transport routes, good public transport access, and good access for emergency vehicles. The proposal will provide community benefit.

Consistency with strategic planning framework :

Lower Hunter Regional Strategy 2006 (LHRS)

The proposal is consistent with the LHRS, particularly the requirement for quality and equity in health services. Although the proposal is small in scale, it will contribute to generating employment opportunities, will provide for improved health, community and personal services to support the population of Newcastle and Lower Hunter, and is therefore considered consistent.

Newcastle 2030 Community Strategic Plan

Newcastle 2030 sets the direction for growth of the city. The plan highlights the growing and ageing population within Newcastle, and a key objective is active, healthy communities with physical, mental and spiritual health and well-being. The proposal is consistent with the vision and strategic directions of the Newcastle 2030 as it facilitates the provision of increased health services to the community. The site is well connected and convenient to transport networks and services, the redevelopment of the site is an efficient utilisation of an existing land resources, and the proposal will allow for members of the public to access and utilise this needed health care service.

Newcastle Urban Strategy (NUS)

The Newcastle Urban Strategy recognises the value of enhancing the quality of life for all citizens and identifies the importance of accessible and appropriate services and infrastructure. The proposal will provide an accessible and appropriate health service facility to contribute to the enhancement of quality of life and contribute to the viability of Newcastle and expansion of the Newcastle Eye hospital.

State Policies

NSW State Health Plan

The NSW State Health Plan sets programs, policy and priorities across the health system for delivery of health services being 'the right care, in the right place, at the right time' for everyone. The Plan acknowledges a growing and ageing population, and the rise in community expectations for access and treatment to health services. The proposal seeks to facilitate the provisions of increased health services to the community to help meet growing demand and increasing expectations for health services.

NSW 2021 Plan

The proposal is consistent with NSW 2021 Plan which lists one of its five key strategies as being to return quality services, including provision of world class clinical services with timely access and effective infrastructure. The proposal allows the Newcastle Eye Hospital to provide improved medical facilities.

State Environmental Planning Policies

SEPP 44 - Koala Habitat Protection

This SEPP applies to the whole local government area, however the land is urban and there are no records of koalas on site. The proposal is consistent with this SEPP.

SEPP 64 - Advertising and Signage

This SEPP applies to signage and advertising. In accordance with the SEPP, Council will need to assess any impacts prior to granting DA consent to ensure its compatibility, amenity and visual character in the local area. This matter can be addressed when the future development application is submitted.

SEPP (Infrastructure) 2007

Clause 101 refers to development with frontage to a classified road. The subject land has frontage to Griffiths Road and Lambton Road which are both classified roads. This clause can be addressed as part of any future development application.

Section 117 Directions

2.1 Environmental Protection Zones - The proposal is consistent with this direction as it does not impact on environmentally sensitive land.

2.3 Heritage Conservation - The proposal is consistent with this direction as the site is not located within a heritage conservation area nor does it contain any items of European or natural heritage significance. The subject site is not known to contain any items of Aboriginal archaeological significance.

2.4 Recreation Vehicle Areas - The proposal is consistent with this direction as it does not propose the land be developed for the purpose of a recreation vehicle area.

3.1 Residential Zones - The proposal is consistent with this direction as the amendment will not alter the zoning or choice of housing provided within the zone and existing Newcastle LEP 2012.

3.2 Caravan Parks and Manufactured Home Estates - The proposal is consistent with this direction as the amendment does not propose changes to caravan parks and manufactured home estates.

3.3 Home Occupations - The proposal is consistent with this direction as there is no proposed change to the home occupation provisions.

3.4 Integrated Land Use and Transport - The proposal is consistent with this direction. The site is already well developed and a portion of the site contains the existing Newcastle Eye Hospital. The site is identified as an existing urban area under the LHRs and is positioned within close proximity to two specialised centres. The site is located at the intersection of two main roads and a local collector road and is well serviced by the local public bus service.

4.1 Acid Sulfate Soils - The site is identified on Council's Acid Sulfate Soils Map as containing Class 5 Acid Sulfate Soils (ASS), however the site is not located within 500m of adjacent Class 1,2,3, or 4 ASS land that is below 5m AHD, and the proposal will not lower the watertable. The Newcastle LEP 2012 contains an existing clause adequate to address acid sulfate soils. The proposal is therefore consistent with this direction.

5.1 Implementation of Regional Strategies - The proposal is not inconsistent with the aims and objectives of the Lower Hunter Regional Strategy. The proposal will contribute to generating employment opportunities, will provide for improved health, community and personal services to support the population of Newcastle and Lower Hunter. The proposal is consistent with this direction.

6.1 Approvals and Referral requirements - The proposal does not require concurrence, consultation or referral to the Minister or public authority and is therefore consistent with this direction.

6.2 Reserving Land for Public Purposes - The proposal does not create, alter or reduce existing zonings or reservations of land for public purposes and is therefore consistent with this direction.

6.3 Site Specific - The planning proposal proposes an amendment to Schedule 1 - Additional Permitted Uses to enable 'health services facility' to be permitted on the subject site. A 'health services facility' is a prohibited use within the R2 Low Density Residential zone. Council has determined not to allow that use to be carried out more broadly in this zone, nor does Council wish to rezone the site to an alternative zone that allows that land use. The proposal is therefore inconsistent with this direction.

The Newcastle LEP 2012 needs to be amended to facilitate the expansion of the Newcastle Eye Hospital through an amendment to Schedule 1 - Additional Permitted Uses to enable 'health services facility' to be permitted on the subject site. It is recommended that the provisions of the planning proposal that are inconsistent with this direction, are considered of minor significance.

Environmental social
economic impacts :

The Newcastle Eye Hospital has exhausted its capacity within its existing premises. It is considered that the planning proposal will enable the Newcastle Eye Hospital to expand and make improvements to the existing facility and incorporate adjoining land. The site

Newcastle LEP 2012 - Newcastle Eye Hospital, Waratah

has good access to public transport services, and is already serviced by all essential infrastructure including water, electricity and sewer. The expansion of the Newcastle Eye Hospital will provide continued social, health services and economic benefits to the community.

The land has not been identified as containing any critical habitat or threatened species, populations or ecological communities or their habitats. The site is not located in a mine subsidence district, is not identified as being a flood prone area or affected by bushfire risk. There are no items of environmental heritage on, or in the vicinity of the site. There is no known contamination of the land, and the current and former uses of the land are unlikely to have caused risk of contamination. These matters can all be addressed as part of the development assessment made by Council.

Council has identified that the proposal may result in an increased traffic generation due to the expansion of the Newcastle Eye Hospital facilities. However traffic management, car parking and noise impacts will form part of the development assessment process, and will be addressed against Council's Development Control Plan and policies.

Assessment Process

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

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

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
Letter - Gateway Eye Hospital.docx	Proposal Covering Letter	Yes
Planning Proposal Newcastle Eye Hospital.pdf	Proposal	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
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 5.1 Implementation of Regional Strategies
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information : It is recommended that an amendment to the Newcastle Local Environmental Plan 2012 to insert a clause in Schedule 1 - Additional Permitted Uses, to enable development for the purpose of a 'health services facility' on Lots 2,3,4, DP 21366, Lot 7, DP 660745, Lot 8, DP 660746, Lots 1 & 2, DP 111442 and Lots 100 and Lot 101, DP 569322 being 174-182 Christo Road, Waratah and 114-116 Griffiths Road, Lambton; and to amend the height of buildings map to include a maximum permissible height of 10 metres over part of the land, proceed subject to the following conditions:

1. 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 a minimum 14 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 5.5.2 of A guide to preparing LEPs (Department of Planning & Infrastructure 2013).

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

3. The Secretary's delegate agree to the following section 117 Direction inconsistency – 6.3 Site Specific Provisions, as the inconsistency with the Directions are considered of minor significance.

4. 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 submission if reclassifying land).

5. The time-frame for completing the LEP is to be 9 months following the Gateway Determination.

Supporting Reasons : Council has undertaken the necessary investigations and considered the various alternative options to a Schedule 1 - Additional Permitted Uses amendment. This has identified that the proposed amendment is considered the most appropriate outcome to allow the expansion of the Newcastle Eye Hospital facility.

The proposal is consistent with the objectives of the Lower Hunter Regional Strategy and Council's Newcastle 2030 Community Strategic Plan. It is considered that there will be a net community benefit to the proposal proceeding and local issues may be resolved through subsequent DA process.

Signature:



Printed Name:

K. O'Flaherty

Date:

29/4/15