

Cessnock Local Environmental Plan 2011 Amendment - Greta Train Support Facility

Proposal Title : **Cessnock Local Environmental Plan 2011 Amendment - Greta Train Support Facility**

Proposal Summary : **The Planning Proposal (PP) seeks to rezone the subject land from RU2 Rural Landscape to part SP2 Infrastructure (Railway) and part E2 Environmental Conservation.**

The rezoning will make the Train Support Facility (TSF), already approved for the site under Part 3A of the EP& A Act 1979, permissible under Cessnock Local Environmental Plan 2011. Otherwise the development will need to rely on existing use right provisions. The significant vegetation (approximately 19.8ha), which forms part of the biodiversity offset package for the TSF, will be zoned E2 Environmental Conservation.

In addition, it is proposed to amend the lot size map, so that there is no minimum requirement for the land zoned SP2 Infrastructure and an 80ha minimum requirement for the land zoned E2 Environmental Conservation.

PP Number : **PP_2012_CESSN_006_00** Dop File No : **12/19797**

Proposal Details

Date Planning Proposal Received :	05-Dec-2012	LGA covered :	Cessnock
Region :	Hunter	RPA :	Cessnock City Council
State Electorate :	CESSNOCK	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Lot 1 DP1129191		
Suburb :	8 Mansfield St	City :	Greta
		Postcode :	2334
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 : **Bo Moshage**
Contact Number : **0249934241**
Contact Email : **bo.moshage@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 Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	20.00	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	40

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :
If No, comment :

Have there been No
meetings or
communications with
registered lobbyists? :
If Yes, comment :

Supporting notes

Internal Supporting Notes : **The TSF was approved under part 3A of the EP& A Act 1979 in March 2011 under Cessnock Local Environmental Plan 1989, where it was permissible in the 1(a) Rural (A) zone under the Model Provisions.**

Council originally wanted to zone the entire site SP2 Infrastructure (Railway) under the SI LEP. The NSW Office of Environment and Heritage objected to the rezoning and requested the conservation of significant vegetation. To address this objection the rural zone was retained under Local Environmental Plan 2011. Council was advised to prepare a separate planning proposal to pursue this rezoning.

This PP appropriately zones the significant vegetation (approximately 19.8ha), which forms

part of the biodiversity offset package for the TSF, from Rural to E2 Environmental Conservation.

It is understood that Pacific National has signed an in principle bio-banking agreement with the Federal Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC) and the State Office of Environment and Heritage (OEH) to provide the required off site vegetation package to satisfy the Part 3A approval. The original off site vegetation package did not proceed after the Mindaribba Local Aboriginal Land Council resolved not to accept offer.

External Supporting
Notes :

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:-**

- 1. enable the approved Train Support Facility (TSF) to be permissible under the provisions of the Cessnock Local Environmental Plan 2011**
- 2. To provide greater ongoing protection and identification of those areas of the site identified as biodiversity offsets.**

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

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

Comment : **The PP explains the LEP amendments**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA : **1.2 Rural Zones**

* May need the Director General's agreement **1.5 Rural Lands**

2.1 Environment Protection Zones

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 (Infrastructure) 2007**
SEPP (Rural Lands) 2008

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 : **S117 Directions**
1.2 Rural Zones - The PP rezones the land to SP2 Infrastructure and E2 Environmental Conservation, which is not inconsistent with this S117 Direction.

1.5 Rural Lands - Rezoning the land for infrastructure is inconsistent with the Rural Planning Principles under the SEPP. The inconsistency is justified as of minor significance because the land has minimal agricultural potential, the SP2 zoning is appropriate for the approved TSF and the land is located between the main Northern Railway and the Hunter Expressway.

2.1 Environment Protection Zones - The PP rezones the environmentally significant vegetation to E2 Environmental Conservation to ensure greater protection for

environmentally sensitive areas. The PP is consistent with this s117 Direction

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The PP will amend the zoning and lot size maps**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council proposes 28 days, but 14 days should be sufficient because the TSF has already been approved**

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment : **The Planning Proposal should proceed. Consultation with Office of Environment and Heritage and the Department of Sustainability, Environment, Water, Population and Communities will inform them about the rezoning as they finalise the bio-banking agreement with Pacific National. No further studies are considered necessary.**

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The SILEP was published on 23 December 2011**

Assessment Criteria

Need for planning proposal : **Yes. The PP will make the Train Support Facility (TSF), approved for the site under Part 3A of the EP& A Act 1979, permissible under Cessnock Local Environmental Plan 2011. This will provide transparency in the LEP rather than Pacific National having to rely on existing use right provisions.**

Cessnock Local Environmental Plan 2011 Amendment - Greta Train Support Facility

Consistency with strategic planning framework :

Lower Hunter Regional Strategy (LHRS)

The TSF will improve the efficiency of the Hunter Valley export coal chain to the Port. The PP will appropriately zone the TSF and is therefore consistent with LHRS objective to maximise the economic opportunities associated within the region's competitive advantage being the Port of Newcastle and associated coal activities.

The Lower Hunter Regional Conservation Plan (LHRCP)

The PP is consistent with the objectives of the LHRCP and will provide a positive environmental conservation outcomes.

City Wide Settlement Strategy (2010)(CWSS)

The PP is consistent with the aims and objectives of the CWSS by zoning major infrastructure SP2 Infrastructure.

The CWSS recognises the need to provide opportunities for export markets to take advantage of existing infrastructure, such as railway lines, within the Region. The approved TSF meets this objective and provides a facility adjacent to the Main Northern Railway and the proposed Hunter Expressway, which services the export markets associated with the Port of Newcastle.

Environmental social economic impacts :

Environmental Impacts

A significant amount of assessment was carried out as part of the TSF Project application to determine the impact of development on the site. This included ecological assessment under S5A of the EP&A Act, Threatened Species Conservation Act 1995 and Environmental Protection and Biodiversity Conservation Act 1999. The planning proposal rezones the significant vegetation E2 Environmental Conservation. No further environmental studies are considered necessary.

Social and Economic impacts

The PP should have positive social and economic impacts. Employment opportunities will be generated during the construction phase and also through the operation of the TSF and supporting services.

Pacific National moves approximately 85% of the coal from the Hunter to the Port. The TSF will improve the efficiency of the Hunter Valley export coal chain, which makes a very significant social and economic contribution to the Hunter region and State of New South Wales.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage**
Other

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 :

Cessnock Local Environmental Plan 2011 Amendment - Greta Train Support Facility

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
Train Support Facility Part 3A approval.pdf	Determination Document	Yes
Planning Proposal - Train Support Facility Greta.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones**
 1.5 Rural Lands
 2.1 Environment Protection Zones

Additional Information : **It is recommended that:**

- 1. The Planning Proposal be supported.**
- 2. 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 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 4.5 of A guide to preparing LEPs (Department for Planning 2009).**
- 3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:**
 - Office of Environment and Heritage**
 - Department of Sustainability, Environment, Water, Population and Communities**

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.

4. The Director General (or delegate) approves the minor inconsistencies with the Minister's S117 Direction 1.5 Rural Lands. The inconsistency is justified as of minor significance because the land has minimal agricultural potential, the SP2 zoning is appropriate for the approved Train Support Facility and the land is located between the main Northern Railway and the Hunter Expressway.

5. 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.

Cessnock Local Environmental Plan 2011 Amendment - Greta Train Support Facility

6. The timeframe for completing the LEP is 6 months from the date of the Gateway Determination.

Supporting Reasons :

The rezoning will make the Train Support Facility (TSF), approved for the site under Part 3A of the EP& A Act 1979, permissible under Cessnock Local Environmental Plan 2011. Otherwise the Pacific National will need to rely on existing use right provisions. Also zoning infrastructure SP2 is consistent with the SI LEP practice note PN11-002.

The part of the site identified by the Part 3A approval as containing environmental lands (approximately 19.8ha), will be zoned E2 Environmental Conservation. The conservation lands will be managed in accordance with the bio-banking agreement, which is currently being finalised. No further environmental studies are considered necessary.

Signature:



Printed Name:

KO'FLAHERTY

Date:

13-12-12