

Planning Proposal



70 Vale Street, Shortland

March 2013

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PLANNING PROPOSAL – 70 VALE STREET, SHORTLAND

Summary of Proposal

Proposal	Rezone land in Shortland from RE2 Private Recreation to SP2 Infrastructure (Educational Establishment)
Property Details	70 Vale Street, Shortland Lot 101 DP 881682
Applicant Details	de Witt Consulting Pty Ltd

Background

Council has received a request to amend Newcastle LEP 2012 in order to reflect the new ownership and use of the existing buildings on the site by the University of Newcastle for research purposes.

The site was previously owned by BHP and contained the BHP-Billiton research laboratories. The land is now owned by the University of Newcastle who have established the Newcastle Institute for Energy and Resources (NIER) on the site. The University has development consent from Council for the fit-out and occupation of the existing buildings for this purpose (DA/10/0417). The redevelopment of the site was facilitated by a \$30 million Education Investment Fund grant by the Federal Government and \$2.2 million from the NSW State Government. The University of NSW, University of Wollongong and CSIRO have joined the University of Newcastle in this project.

Under Newcastle LEP 2003 the site was zoned 6(a) Open Space and Recreation. This zone was converted to RE2 Private Recreation in Newcastle LEP 2012. Educational Establishments are not permitted in the RE2 zone.

The University has made a formal request to have the zoning changed to SP2 Infrastructure (Educational Establishment) similar to the zoning of the adjoining Callaghan Campus.

Site

The proposal consists of land at Lot 101 DP 881682, 70 Vale Street Shortland. It is approximately 3.7 hectares in area. Development on the site comprises several buildings that previously housed a BHP research facility, parking areas and roadways and landscaping. The buildings are now occupied by the NIER facility.

The Shortland Waters Golf Club adjoins the site to the north, the Newcastle Inner City Bypass is to the west and Newcastle University is to the south and east. Land to the west of the Inner City Bypass is zoned R2 Low Density Residential. Access to the site is via Vale Street which overpasses the Inner City Bypass. (See **Figure 1: Local Context** and **Figure 2: Air Photo of Site**).



Newcastle Local Environmental Plan 2012

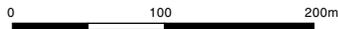
Local Area Context Map

Cadastre

- Cadastre base data 01/08/2007 © LPMA
Addendum data 21/02/2013 © Newcastle City Council
- Subject Site
- Suburb boundary
- LGA boundary



Projection GDA 1994
Zone 56



Scale 1:5,000 @ A4

Planning Proposal - 70 Vale Street Shortland - Local Area Context Map





Newcastle Local Environmental Plan 2012

Site Air Photo Map

Cadastral

-  Cadastre base data 01/08/2007 © LPMA
Addendum data 21/02/2013 © Newcastle City Council
-  Subject Site
-  Suburb boundary



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

The objective is to rezone the site to reflect the current use and ownership of the site by the University of Newcastle for an educational establishment.

PART 2 - EXPLANATION OF PROVISIONS

It is proposed to amend the Newcastle LEP 2012 by rezoning the land from RE2 Private Recreation to SP2 Infrastructure (Educational Facility). This will involve amending the Land Zoning Map Sheet LZN_002E as it relates to Lot 101 DP 881682. It also involves an amendment to the Lot Size Map Sheet LSZ_002E to remove the minimum lot size of 40 hectares. The Newcastle LEP 2012 does not set minimum lot sizes for the SP2 Infrastructure zone.

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

No. However, the University has been identified in the Lower Hunter Regional Strategy as a regionally significant specialised centre and the planning proposal reinforces that designation.

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

Yes. The current zoning does not accurately reflect the existing use of the site. The site could rely on existing use rights and the provisions of clause 28(2)(b) of the Infrastructure SEPP that allows existing educational establishments to expand with consent. However, the proposed rezoning makes clear the intended outcomes for the land. The University advises that the correct zoning will assist in the preparation of its strategic asset management plan and better integrate this site with the existing Callaghan campus.

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy (2006)

The Lower Hunter Regional Strategy applies to the land. The aim of this Strategy is to ensure that adequate land is available to accommodate the projected housing and employment growth in the Hunter Region over the next 25 years.

The Callaghan Campus of the University of Newcastle is nominated as a specialised centre in the Lower Hunter Regional Strategy. The University advises that it has developed a strategy as required by the Lower Hunter Regional Strategy to maximise employment opportunities. The planning proposal will facilitate the objectives of the University's strategic directions report by providing greater certainty for the planning and development of the NIER site.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Newcastle 2030 Community Strategic Plan

Council adopted the Newcastle 2030 Community Strategic Plan in February 2011. The planning proposal primarily aligns to the strategic direction 'Open and Collaborative Leadership' identified within the Newcastle Community Strategic Plan 2030.

Compliance with the LEP amendment process, in particular section 57 – community consultation of the Environmental Planning and Assessment (EP&A) Act 1979, will assist in achieving the strategic objective; "Consider decision-making based on collaborative, transparent and accountable leadership" and the identified strategy 7.2b, which states: "Provide opportunities for genuine and representative community engagement in local decision making".

The proposal is also consistent with the strategic direction "smart and innovative city" which has strategies aimed at achieving a vibrant diverse and resilient green economy built on educational excellence and research.

Newcastle Urban Strategy (NUS)

The Newcastle Urban Strategy identifies the University as a major employment area. The planning proposal will assist in strengthening this position.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Consistency (of the planning proposal) with State Environmental Planning Policies is outlined in the table below.

Table 1 - Consideration of State Environmental Planning Policies

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 1—Development Standards	No	
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No	
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	
State Environmental Planning Policy No 14—Coastal Wetlands	No	
State Environmental Planning Policy No 15—Rural Landsharing Communities	No	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	
State Environmental Planning Policy No 21—Caravan Parks	No	
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	
State Environmental Planning Policy No 26—Littoral Rainforests	No	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	
State Environmental Planning Policy No 30—Intensive Agriculture	No	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No	
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	
State Environmental Planning Policy No 36—Manufactured Home Estates	No	
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	
State Environmental Planning Policy No 44—Koala Habitat Protection	No	
State Environmental Planning Policy No 47—Moore Park Showground	No	

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 50—Canal Estate Development	No	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	
State Environmental Planning Policy No 55—Remediation of Land	Yes	<p>Consistent. The site is not identified by Council as being contaminated. However past uses of the site may have included waste storage and iron and steel works which are listed in Table 1 of "Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land" as activities that may cause contamination. A Detailed Site Investigation is currently being undertaken of the site in accordance with the NSW EPA "Guidelines for Consultants Reporting on Contaminated Sites". The university has also appointed a site auditor.</p> <p>The change in zoning will not affect the use or facilitate additional land uses not already permissible through the I-SEPP and any contamination identified through the Detailed Site Investigation will be remediated as necessary.</p>
State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area	No	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	
State Environmental Planning Policy No 64—Advertising and Signage	Yes	<p>Consistent. Any future signage on the site that requires development consent will be assessed on its merits at that time..</p>
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 71—Coastal Protection	No	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	
State Environmental Planning Policy (Infrastructure) 2007	Yes	Consistent. The proposal will amend the zoning to a prescribed zone under the SEPP.
State Environmental Planning Policy (Kosciusko National Park—Alpine Resorts) 2007	No	
State Environmental Planning Policy (Major Development) 2005	No	
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	
State Environmental Planning Policy (Rural Lands) 2008	No	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No	
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	
SEPP (State and Regional Development) 2011	No	

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Consistency (of the planning proposal) with applicable Ministerial Directions is outlined in the table below.

Table 2 - Consideration of Section 117 Direction

S117 Direction	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	Yes	Inconsistent. By amending the zone from RE2 to SP2 the proposal will remove the permissibility of Caravan Parks for the site. The inconsistency is considered to be of a minor nature and is justified by the University's Strategic Directions Report which was prepared with the involvement of the Dept of Planning. The inconsistency is minor as: - the zoning is to reflect the existing use of the site for an education facility; and - the current land use is a research facility and a caravan park is highly unlikely to be developed on the site.
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	Yes	Consistent. The site is strategically located for the proposed use and will not affect transport choices.
3.5 Development Near Licensed Aerodromes	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	

S117 Direction	Applicable	Consistent
4.4 Planning for Bushfire Protection	Yes	Consistent. The site is bushfire prone land. Consultation with the NSW Fire Service will be required following receipt of the Gateway determination.
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	The planning proposal is consistent with the Lower Hunter Regional Strategy and does not undermine achievement of its vision, land use strategy, policies, outcomes, or actions.
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.8 Second Sydney Airport: Badgerys Creek	No	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	

Section C - Environmental, social, and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. None are identified. The rezoning will reflect the existing use of the site. The proposal does not involve the construction of any new buildings or works and will not impact existing vegetation.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Mine Subsidence

The site is not located within a Mine Subsidence District.

Hydrology and Water Management

The site is not located within a flood prone area.

Bushfire

According to Newcastle Bush Fire Hazard Map (2009) the land affected by bushfire risk or in the vicinity of such a risk.

Bushfire risk was considered as part of the development application assessment for the occupation and use of the buildings (DA 10/0417). This development application was approved by Council on 30 August 2010. Council consulted with the Rural Fire Service (RFS) and incorporated a number of RFS nominated conditions as part of the consent. A bushfire risk assessment was also completed more recently as part of an approval issued by Newcastle City Council (DA/11/0964) for a new research building on adjoining land. The construction of this adjoining building and its associated asset protection zones will further mitigate the bushfire threat for this site.

The RFS may be further consulted as part of any required consultation by the Gateway determination.

Heritage

There are no listed items of environmental heritage on site or in the vicinity of the site.

Contamination

Council records do not indicate that the site is affected by contamination. However the site was in used in the past by BHP for a research facility. Some research activities undertaken may have included waste storage and iron and steel works which are listed in Table 1 of "Managing Land Contamination Planning Guidelines SEPP 55 - Remediation of Land" as activities that may cause contamination. The site is currently subject to a Detailed Site Investigation in accordance with the NSW EPA "Guidelines for Consultants Reporting on Contaminated Sites" and a site auditor has been appointed by the university.

The rezoning will not change the existing use of the site as an educational facility. The change in zoning will not affect the use or facilitate additional land uses not already

permissible through the I-SEPP. Any contamination identified through the Detailed Site Investigation will be remediated as necessary.

Traffic Impacts and Vehicular and Pedestrian Access

Access to the site is via Vale Street, which overpasses the Newcastle Inner City Bypass. Pedestrian and public transport access is very limited. A new restricted access road is proposed as part of a separate development application that will link the site directly with the Callaghan Campus.

9. Has the planning proposal adequately addressed any social and economic effects?

The proposal will have positive social and economic effects. The planning proposal recognises the establishment of the Newcastle Institute of Energy and Resources (NIER). NIER is a world-class research facility with extensive mineral, chemical and related technical laboratories, workshops, offices and five industrial-scale pilot plant workshops.

The NIER will provide for a significant increase in research training activities, and access to industrial scale facilities will ensure students graduate with industry-relevant experience. When fully operational, the research precinct will support some 300 researchers in purpose-built, state-of-the-art facilities unrivalled in Australia.

The Institute will have ongoing benefits in the Hunter region, promoting the growth and delivery of applied research facilities for students, and increasing the number of graduates entering the energy and resources labour markets.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Existing infrastructure is adequate to serve the needs of the proposal.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The planning proposal has no significant implications for State or Commonwealth public authorities.

The planning proposal recognises the use of the site for a research facility (NIER). NIER is funded through a \$30 million Australian Government grant through the Education Investment Fund.

Consultation will be necessary with the Rural Fire Service (RFS) as the land is classified as bushfire prone. It is noted that the RFS were consulted and recommended conditions that were included in the consent for the change of use of the site from the BHP research facility to an educational establishment (DA/10/0417).

PART 4 – MAPPING

The planning proposal seeks to amend the following maps within Newcastle LEP 2012:

- Land Zoning Map
- Minimum Lot Size Map

The following maps are included to illustrate the mapping amendments proposed:

- **Figure 3:** Existing Land Zoning Map
- **Figure 4:** Proposed Land Zoning Map
- **Figure 5:** Existing Min Lot Size Map
- **Figure 6:** Proposed Min Lot Size Map



Newcastle Local Environmental Plan 2012

Existing Land Zoning Map

Cadastral

-  Cadastral base data 01/08/2007 © LPMA
-  Addendum data 21/02/2013 © Newcastle City Council
-  Subject Site

Zone

-  B1 Neighbourhood Centre
-  B2 Local Centre
-  B3 Commercial Core
-  B4 Mixed Use
-  B5 Business Development
-  E1 National Parks and Nature Reserves
-  E2 Environmental Conservation
-  E3 Environmental Management
-  E4 Environmental Living
-  IN1 General Industrial
-  IN2 Light Industrial
-  IN3 Heavy Industrial
-  R2 Low Density Residential
-  R3 Medium Density Residential
-  R4 High Density Residential
-  RE1 Public Recreation
-  RE2 Private Recreation
-  SP1 Special Activities
-  SP2 Infrastructure
-  W2 Recreational Waterways
-  UL Unzoned Land

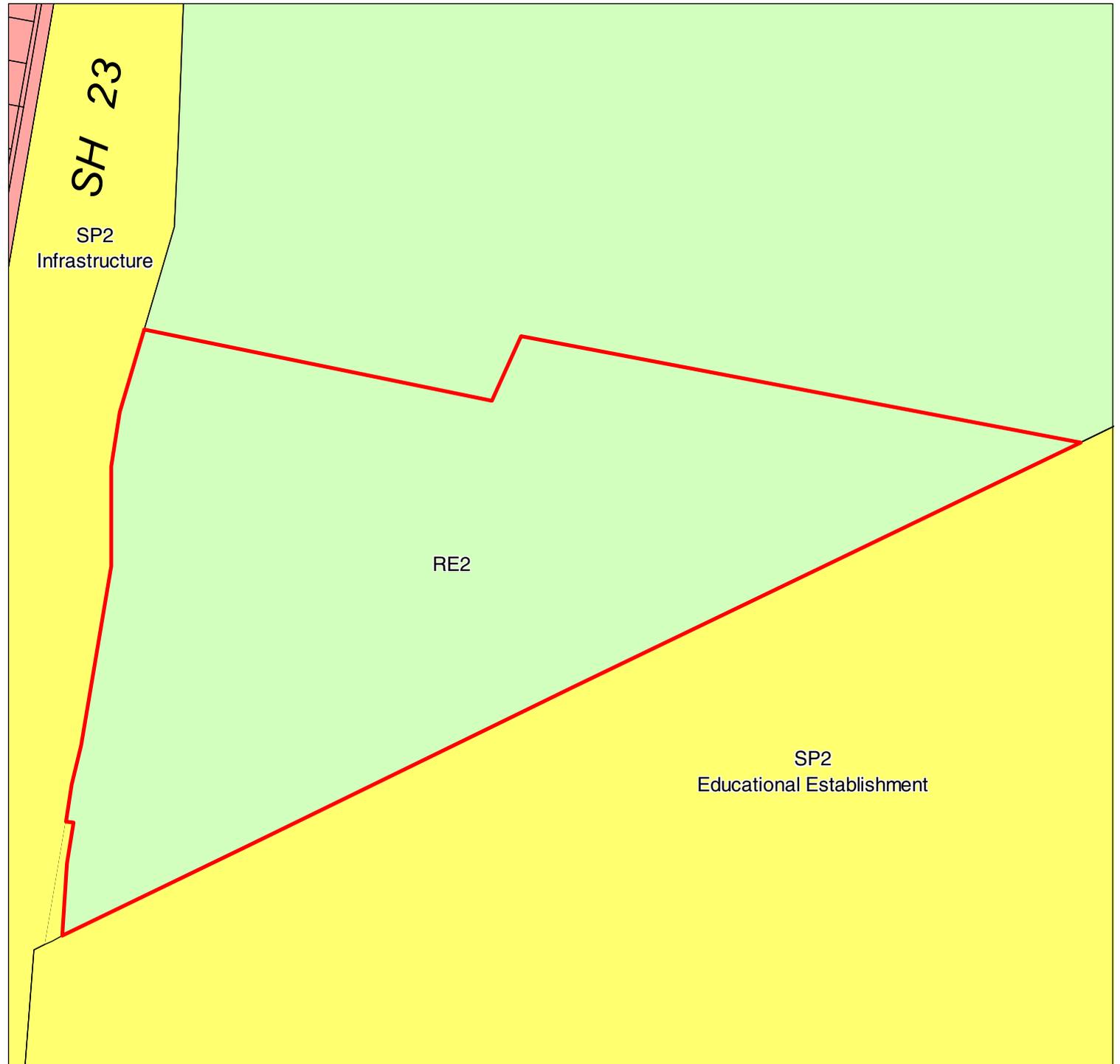


Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4

Planning Proposal - 70 Vale Street Shortland - Existing Land Zoning Map





Newcastle Local Environmental Plan 2012

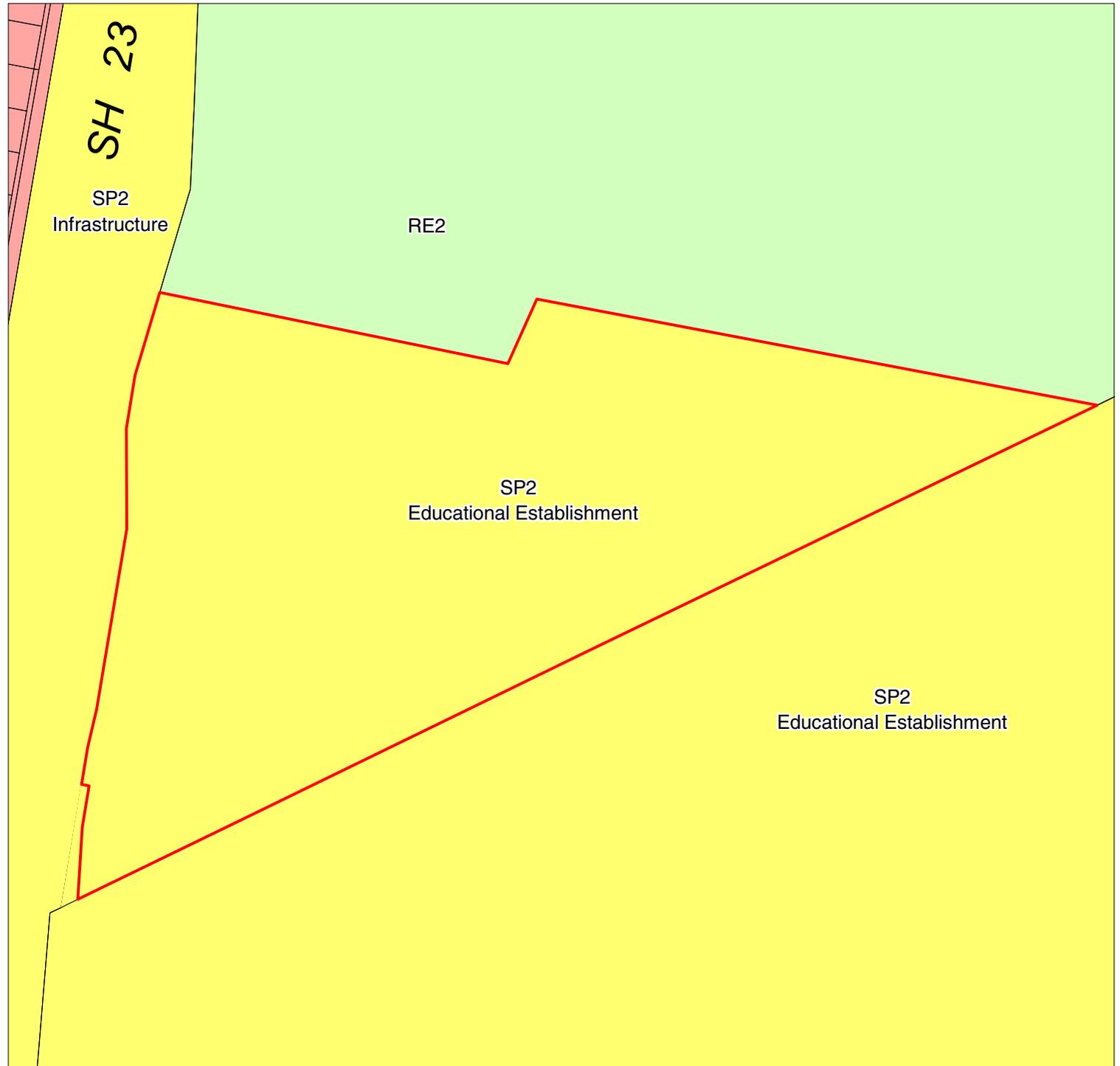
Proposed Land Zoning Map

Cadastral

- Cadastral base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site

Zone

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- IN3 Heavy Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- RE1 Public Recreation
- RE2 Private Recreation
- SP1 Special Activities
- SP2 Infrastructure
- W2 Recreational Waterways
- UL Unzoned Land



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4



Newcastle Local Environmental Plan 2012

Existing Min Lot Size Map

Cadastre

□ Cadastre base data 01/08/2007 © LPMA
Addendum data 21/02/2013 © Newcastle City Council

□ Subject Site

Minimum Lot Size (sq m)

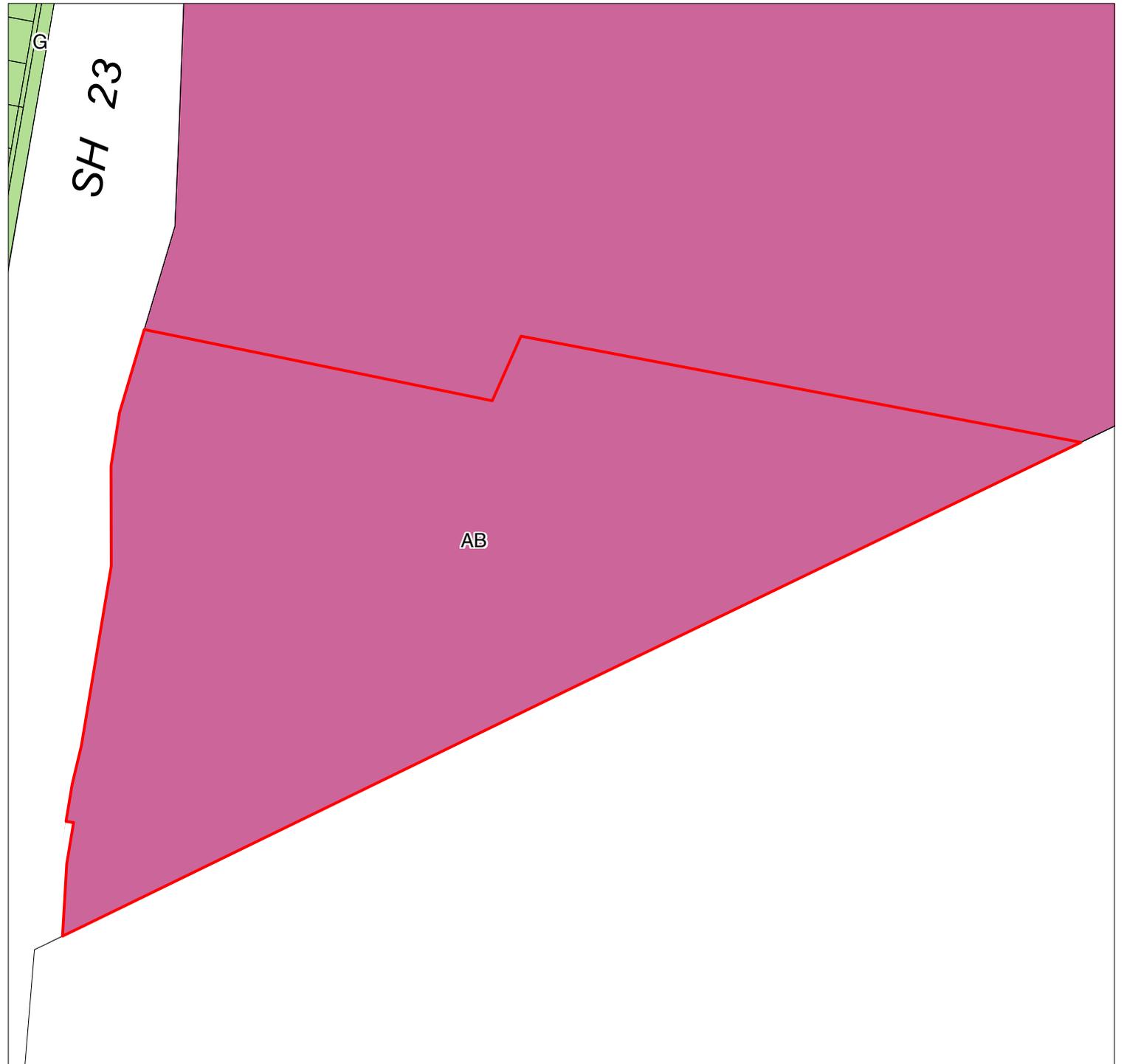
F	400
G	450
U	1 000
Y	10 000 (1 ha)
Z	20 000 (2 ha)
AB	400 000 (40 ha)



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4





Newcastle Local Environmental Plan 2012

Proposed Min Lot Size Map

Cadastral

- Cadastral base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site

Minimum Lot Size (sq m)

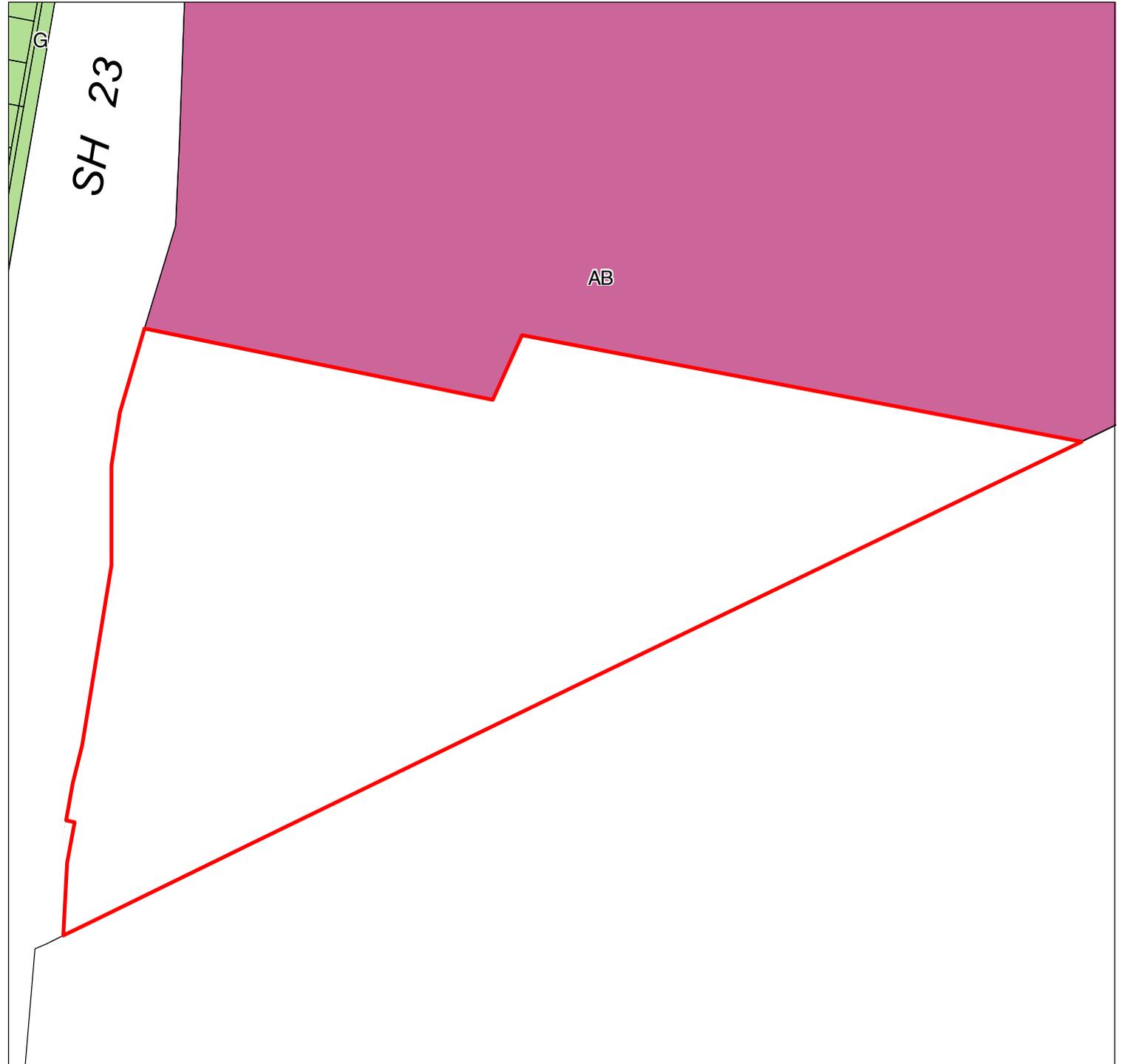
- F 400
- G 450
- U 1 000
- Y 10 000 (1 ha)
- Z 20 000 (2 ha)
- AB 400 000 (40 ha)



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4



PART 5 – COMMUNITY CONSULTATION

The planning proposal is considered as low impact in accordance with the Department of Planning's guidelines, 'A guide to preparing local environmental plans'. Hence it is proposed that the planning proposal will be publicly exhibited for a minimum 14 day period.

Council proposes to consult with the following agencies prior to public exhibition of the planning proposal:

- NSW Rural Fire Service

Any other relevant agencies will be consulted in accordance with the requirements of the gateway determination.

PART 6 – PROJECT TIMELINE

The project is expected to be completed within six months from Gateway Determination. The following timetable is proposed:

Task	Planning Proposal Timeline												
	Mar 13	Apr 13	May 13	Jun 13	Jul 13	Aug 13	Sep 13	Oct 13	Nov 13	Dec 13	Jan 14	Feb 14	
Issue of Gateway Determination		█											
Prepare any outstanding studies		█	█										
Consult with required State Agencies		█	█										
Exhibition of planning proposal and technical studies				█									
Review of submissions and preparation of report to Council				█	█								
Report to Council following exhibition						█							
Planning Proposal sent back to Department requesting that the draft LEP be prepared							█						

Planning Proposal



3 Northern Avenue, Tarro

March 2013

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3 NORTHERN AVENUE, TARRO

Summary of Proposal

Proposal	Reclassification of land from Community to Operational and rezoning of the land from RE1 Public Recreation to R2 Low Density Residential
Property Details	3 Northern Avenue Tarro Lot 22 DP 513106
Applicant Details	Strategy Hunter Consultants

Background

Council has received a request on behalf of the landowners of the School of Our Lady of Lourdes at Tarro to amend Newcastle LEP 2012 with respect to an adjacent parcel of land owned by The City of Newcastle.

The purpose of this planning proposal is to enable Council to dispose of the land that it owns (whether by sale or otherwise) potentially to the School of Our Lady of Lourdes.

Site

The proposal consists of land at 3 Northern Avenue Tarro, described as Lot 22 DP 513106.

The site has an area of approximately 1805m² and is vacant other than containing one picnic table in poor condition and some trees. The site is fenced along its frontage to Northern Avenue.

The site is adjoined by the School of Our Lady of Lourdes on the north and west and the Tarro Fire Station to the east. The Tarro community hall is opposite the site in Northern Avenue.

The site is zoned RE1 Public Recreation but is surrounded by land zone R2 Low Density Residential and consists mostly of single detached dwellings.

The character of the local area and the site itself are illustrated in

Figure 1: Local Context of Site, and

Figure 2: Air Photo of Site.



Newcastle Local Environmental Plan 2012

Local Area Context Map

Cadastre

- Cadastre base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site
- Suburb boundary
- LGA boundary



Projection GDA 1994
Zone 56



Scale 1:5,000 @ A4



Newcastle Local Environmental Plan 2012

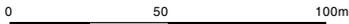
Site Air Photo Map

Cadastre

- Cadastre base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site
- Suburb boundary



Projection GDA 1994
Zone 56



Scale 1:2,000 @ A4

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

The objective of the planning proposal is to enable Council to dispose of the site (whether by sale or otherwise) potentially to the Our Lady of Lourdes School.

PART 2 - EXPLANATION OF PROVISIONS

It is proposed to amend Newcastle Local Environmental Plan 2012 in relation to the described site by:

1. inserting into Part 1 of Schedule 4- 'Classification and reclassification of public land in Column 1 "Tarro" and in Column 2 "Lot 22 DP 513106 known as 3 Northern Avenue Tarro
2. amending the land Zoning Map from RE1 Public Recreation to R2 Low Density Residential
3. amending the Height of Buildings Map to have a maximum height limit of 8.5m
4. amending the Floor Space Ratio (FSR) Map to have a maximum FSR of 0.6
5. amending the Minimum Lot Size Map to have a minimum lots size area of 450 square metres.

The effect of the proposed amendment will be to reclassify Lot 22 DP 513106, 3 Northern Avenue Tarro from community to operational land and to rezone the land from RE1 Public Recreation to R2 Low Density Residential.

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not a result of any strategic study or report. The reclassification of the land is proposed to enable Council to dispose of the site (whether by sale or otherwise) to the Our Lady of Lourdes School.

The land is zoned RE1 Public Recreation. However, it contains no play equipment or recreational facilities and it is not frequently used by the community. The land area (1805m²) is below the 0.5 ha normally regarded as the minimum size for a neighbourhood park. The school has fenced and currently maintains the site.

Council's Recreation Plan 2006-2016 and Section 94A Contributions Plan make no provision for strategic works to be undertaken on this park. These documents direct recreational works to the Tarro Recreation Reserve.

The Our Lady of Lourdes School has 289 enrolments, and occupies a site of 7,127m². It has experienced an ongoing demand for enrolments. Since its establishment, the optimum size of schools has increased and the viability of schools on smaller sites has decreased. The Our Lady of Lourdes School advises that it needs to increase its site in order to adapt to the changing educational and economic needs of schools and the pressure for enrolments.

While the School has had access to the land as a play area, ownership of the land would provide greater certainty and allow the school to manage the site with greater flexibility. The proposed reclassification and rezoning of the site would facilitate the process of delivering certainty over the land's future and the School's use of the land.

In order for Council to have greater options to respond to the School's request, it is proposed to reclassify the site as operational land.

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

Yes, amending the Newcastle Local Environmental Plan (LEP) 2012 to reclassify the land from Community to Operational is the best means of achieving the objectives of the Proposal.

Rezoning the land from RE1 Public Recreation to R2 Low Density Residential will recognise that the land is no longer Council owned open space. The proposed R2 zoning is consistent with the zoning of surrounding land and is consistent with the Department's Practice Note PN 10-001 Zoning for infrastructure in LEPs.

Reclassifying the land to operational and rezoning the land to R2 facilitates Council's ability to dispose of the site and for the school to become the owner of the land. An R2 zoning will permit educational purposes to be carried out with consent as an "educational establishment", or approved under the State Environmental Planning Policy (Infrastructure).

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy (2006)

The Lower Hunter Regional Strategy (LHRS) applies to the land. The aim of this Strategy is to ensure that adequate land is available to accommodate the projected housing and employment growth in the Hunter Region over the next 25 years.

The planning proposal will ensure the School remains viable to serve the growing population in this area and supports the additional housing and employment growth envisaged by the Strategy.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Newcastle 2030 Community Strategic Plan

Council adopted the Newcastle 2030 Community Strategic Plan in February 2011. The planning proposal primarily aligns to the strategic direction 'Open and Collaborative Leadership' identified within the Newcastle Community Strategic Plan 2030.

Compliance with the LEP amendment process, in particular section 57 – community consultation of the Environmental Planning and Assessment (EP&A) Act 1979, will assist in achieving the strategic objective; "Consider decision-making based on collaborative, transparent and accountable leadership" and the identified strategy 7.2b, which states: "Provide opportunities for genuine and representative community engagement in local decision making".

Newcastle Urban Strategy (NUS)

The Newcastle Urban Strategy is Council's local strategic land use planning document. The Newcastle Urban Strategy states that the Catholic School is a significant feature of Beresfield Tarro. It also states that the suburbs should strengthen their identity and character. A local school is an important part of a suburb's identity.

The Urban Strategy also states that an important aim is "to provide greater choices to the community in terms of access to housing, employment, transport, social and cultural services, while offering reduced travel demand". A continued and enhanced local school will assist the achievement of that aim. The Proposal is consistent with the Newcastle Urban Strategy.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Consistency (of the planning proposal) with State Environmental Planning Policies is outlined in the table below.

Table 1 - Consideration of State Environmental Planning Policies

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 1—Development Standards	No	
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No	
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	
State Environmental Planning Policy No 14—Coastal Wetlands	No	
State Environmental Planning Policy No 15—Rural Landsharing Communities	No	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	
State Environmental Planning Policy No 21—Caravan Parks	Yes	Not consistent. Caravan Parks are a permissible use in the RE1 zone, but not in the proposed R2 zone. However, given the area of the land (1805m ²) and context, it is not a viable site for a caravan park.
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	
State Environmental Planning Policy No 26—Littoral Rainforests	No	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	
State Environmental Planning Policy No 30—Intensive Agriculture	No	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No	
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	
State Environmental Planning Policy No 36—Manufactured Home Estates	Yes	Not consistent. Subject to the provisions of the SEPP manufactured home estates are permissible in the RE1 zone, but not the proposed R2 zone. However, as noted in relation to caravan parks, the site is very unlikely to be able to accommodate a manufactured home estate.
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	
State Environmental Planning Policy No 44—Koala Habitat Protection	No	
State Environmental Planning Policy No 47—Moore Park Showground	No	
State Environmental Planning Policy No 50—Canal Estate Development	No	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	
State Environmental Planning Policy No 55—Remediation of Land	No	
State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area	No	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	
State Environmental Planning Policy No 64—Advertising and Signage	No	
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	
State Environmental Planning Policy No 71—Coastal Protection	No	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	
State Environmental Planning Policy (Infrastructure) 2007	Yes	The planning proposal will result in the land being within a prescribed zone of the Infrastructure SEPP.

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	
State Environmental Planning Policy (Major Development) 2005	No	
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	
State Environmental Planning Policy (Rural Lands) 2008	No	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No	
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	
SEPP (State and Regional Development) 2011	No	

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Consistency (of the planning proposal) with Ministerial Directions is outlined in the table below.

Table 2 - Consideration of Section 117 Direction

S117 Direction	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	No	
3.2 Caravan Parks and Manufactured Home Estates	Yes	Minor inconsistency. Caravan Parks are a permissible use with consent in the existing zone (RE1). They are not permissible in the proposed zone (R2). The subject land is too small (1805 sq. m) to permit viable development of a caravan park

S117 Direction	Applicable	Consistent
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	Yes	Yes, the proposal is consistent with the objectives of this direction as the site is strategically located for the proposed use and will not affect transport choices.
3.5 Development Near Licensed Aerodromes	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	Yes	No. The subject land is classified as Class 5 on the 'Potential Acid Sulfate Soils Planning Map' of the Newcastle Local Environmental Plan 2012. The Class 5 category is the least critical category. Any future development projects would need to be aware the requirements of Clause 6.1 of the Newcastle Local Environmental Plan 2012.
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes, the planning proposal is consistent with the Lower Hunter Regional Strategy and does not undermine achievement of its vision, land use strategy, policies, outcomes, or actions.
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.8 Second Sydney Airport: Badgerys Creek	No	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	

S117 Direction	Applicable	Consistent
6.2 Reserving Land for Public Purposes	Yes	The Proposal is seeking to reclassify and rezone land that is used for a public purpose, i.e. open space. However, the land is small in area and alternative open space is available nearby. The land is not dedicated as a public reserve.
6.3 Site Specific Provisions	No	

Table 3 addresses the requirements of the Department of Planning and Infrastructure's Practice Note (PN09-003) on 'Classification and reclassification of public land through a local environmental plan'.

Table 3: LEP Practice Note PN 09-003 - Written Statement

Issued to be addressed	Comment
Reason why the planning proposal is being prepared.	The Proposal is being prepared so that the land can be classified as operational and allow Council the option of selling the subject site.
Current and proposed classification	The land is currently classified as Community Land and it is proposed that the land be classified as Operational Land.
Reason for the reclassification	Council is proposing the reclassification as they wish to have the option of selling the subject site which is not being used by Council for public recreation purposes. Council is seeking to change the zoning of the subject land from RE1 Public Recreation to R2 Low Density Residential, consistent with the surrounding land.
Council's ownership of the land	The subject land is owned by Council.
How and when the interest was acquired.	The subject land was acquired by private treaty on 3 March 1965.
The reason Council acquired an interest in the land.	Council acquired the land for the purposes of a children's playground. Since then, local playground facilities have been provided in alternative locations in Tarro.
Any agreements over the land.	There is no legal agreement over the land.
An indication of any financial loss or gain from the reclassification.	The site would be sold or leased at market value.
The asset management objectives being pursued.	The land is inconsistent with Council's policy framework for open space and is surplus to requirements given alternative open space exists nearby. If the site was sold Council would not be responsible for ongoing maintenance costs and the sale proceeds would be available for expenditure on other Community Land.

Issued to be addressed	Comment
Whether there has been an agreement for the sale or lease of the land.	Discussions have been held with the Catholic Diocese, however, no formal agreements have been made.
Relevant matters required in plan making under the Environmental Planning and Assessment Act.	<p>The reclassification is proposed to be carried out in accordance with:</p> <ul style="list-style-type: none"> • s55 Relevant Authority to prepare a planning proposal • s56 Gateway Determination • s57 Community Consultation
A copy of the Practice Note.	Attached

Section C - Environmental, social, and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site does not contain critical habitat or threatened species, populations or ecological communities, or their habitats.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Mine Subsidence

The site is not located within a Mine Subsidence District.

Hydrology and Water Management

The site is not identified as flood prone by Council's City-wide Floodplain Risk Management Plan.

Bushfire

According to Newcastle Bush Fire Hazard Map (2009) the land is not affected by bushfire risk or in the vicinity of such a risk

Heritage

Two items of local heritage significance are close to the site:

- Our Lady of Lourdes Church at 42 Anderson Drive Lot 42 DP1096998, to the northwest of the subject land (Item 1547)
- Tarro Community Hall 2A Northern Avenue Lot 3 Section F DP 132126 to the south of the subject land (Item 1549)

The reclassification and rezoning of the site will not adversely affect the heritage status of these items. However, any future development application will need to have regard to these items.

Contamination

There is no known contamination of the land and the current and former uses of the land are unlikely to have caused contamination.

Traffic Impacts and Vehicular and Pedestrian Access

The site has a frontage to Northern Avenue. The Planning Proposal does not raise any traffic or access issues. Any future development applications will be required to address these matters.

9. Has the planning proposal adequately addressed any social and economic effects?

The reclassification will result in a loss of public open space. The social impact of this has been deemed to be low because:

- it is too small for most recreational purposes
- it does not contain a playground
- there are two playgrounds located within walking distance
- it does not receive significant recreational use other than use by the school as “playground” during school hours.

Should the School acquire the site, it will assist in enhancing its facilities for the community.

The proceeds of any sale will be allocated to the improvement of Community Land under the Newcastle City Council Public Land Reclassification Policy.

Council’s Public Land Reclassification Policy 2000

Councils Public Land Reclassification Policy 2000 applies to all proposals reclassifying public land from community to operational.

The planning proposal has been assessed against this Council policy (See Table 4).

Table 4 Assessment under Newcastle Public Lands Reclassification Policy

Issues to be addressed	Comment
Step 1: Are there any significant public interest issues affecting the land?	
Biodiversity conservation	The land is not of significance for biodiversity conservation.
Significant natural features	The land does not contain any significant natural features.
Cultural significance	The site does not contain items of cultural significance.
Public health and safety	The land is not bushfire prone nor is it flood prone or affected by mine subsidence. The land is not contaminated. It is affected by Class 5 Acid Sulfate Soils. Any future development application would address issues regarding potential acid sulfate soils.
Public access	The land does not contain a designated pathway for access to community facilities. It is not identified as part of the Newcastle Cycle Strategy. The site does not have significance for public access.
Special legal status	The community does not have a special legal interest in the land. The land is not subject to any trust for public purposes and is not a public reserve.
Proceed to step 2?	No significant public interests have been raised, therefore the proposal may proceed to step 2.

Issues to be addressed	Comment
Step 2: Will there be a net positive benefit for the community?	
Financial impact	The proposal will have a positive financial impact on Council. Council will have the option of selling or leasing the operational land at the market value. If the land is sold Council will not be responsible for ongoing maintenance costs or liability of the site. Proceeds from the sale of the land will be allocated to the improvement of community land consistent with the Newcastle City Council Public Land Reclassification Policy.
Land management impact	There will be no land management impacts.
Impact on community uses and opportunities	Reclassifying the site will not result in a significant reduction of usable parkland or recreation grounds. Alternative open space is located within walking distance. The land receives minimal public usage. There is no need for alternative community land to be provided, given the amount of recreational land nearby.
Impact on enjoyment of community land	Reclassification of the site will have a minimal impact on enjoyment of the community land. The land currently has minimal community use.
Social impact	The proposal is likely to have a positive social impact as it will assist in the ongoing viability of the school, an important local service in Tarro.
Economic impact	The proposal will have a positive impact on the economy as it will assist in the ongoing viability of the school a large employer in Tarro.

The proposal meets the assessment criteria in the Public Lands Reclassification Policy 2000 outlined in Table 4. The site does not contain significant public interests, however, the proposal is expected to have a minor financial and moderate community benefit.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The planning proposal will not create significant additional load on existing public infrastructure. In any case, any subsequent development application would need to consider the impact of the proposed development on public infrastructure.

The site has direct access to Northern Avenue which has two parking lanes and two travel lanes (one each way). The site has access to sewer, water and telecommunication services. The nearest, arterial road, Anderson Drive is the former Pacific Highway and has surplus capacity. Anderson Drive is a bus route (Route 181) which provides access to the Beresfield shopping centre, railway station, Greenhill shopping centre (and bus interchange), and Maitland.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation has been carried out at this stage. Consultation will be carried out in accordance with the requirements of the gateway determination.

PART 4 – MAPPING

The planning proposal seeks to amend the following maps within Newcastle LEP 2012:

- Land Zoning Map
- Height of Buildings Map
- Floor Space Ratio Map
- Minimum Lot Size Map

The following maps are included to illustrate the mapping amendments proposed:

- **Figure 3:** Existing Land Zoning Map
- **Figure 4:** Proposed Land Zoning Map
- **Figure 5:** Proposed Max Height of Buildings Map
- **Figure 6:** Proposed Max Floor Space Ratio Map
- **Figure 7:** Existing Min Lot Size Map
- **Figure 8:** Proposed Min Lot Size Map
- **Figure 9:** Existing Land Classification
- **Figure 10:** Proposed Land Classification



Newcastle Local Environmental Plan 2012

Existing Land Zoning Map

Cadastr

- Cadastr base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site

Zone

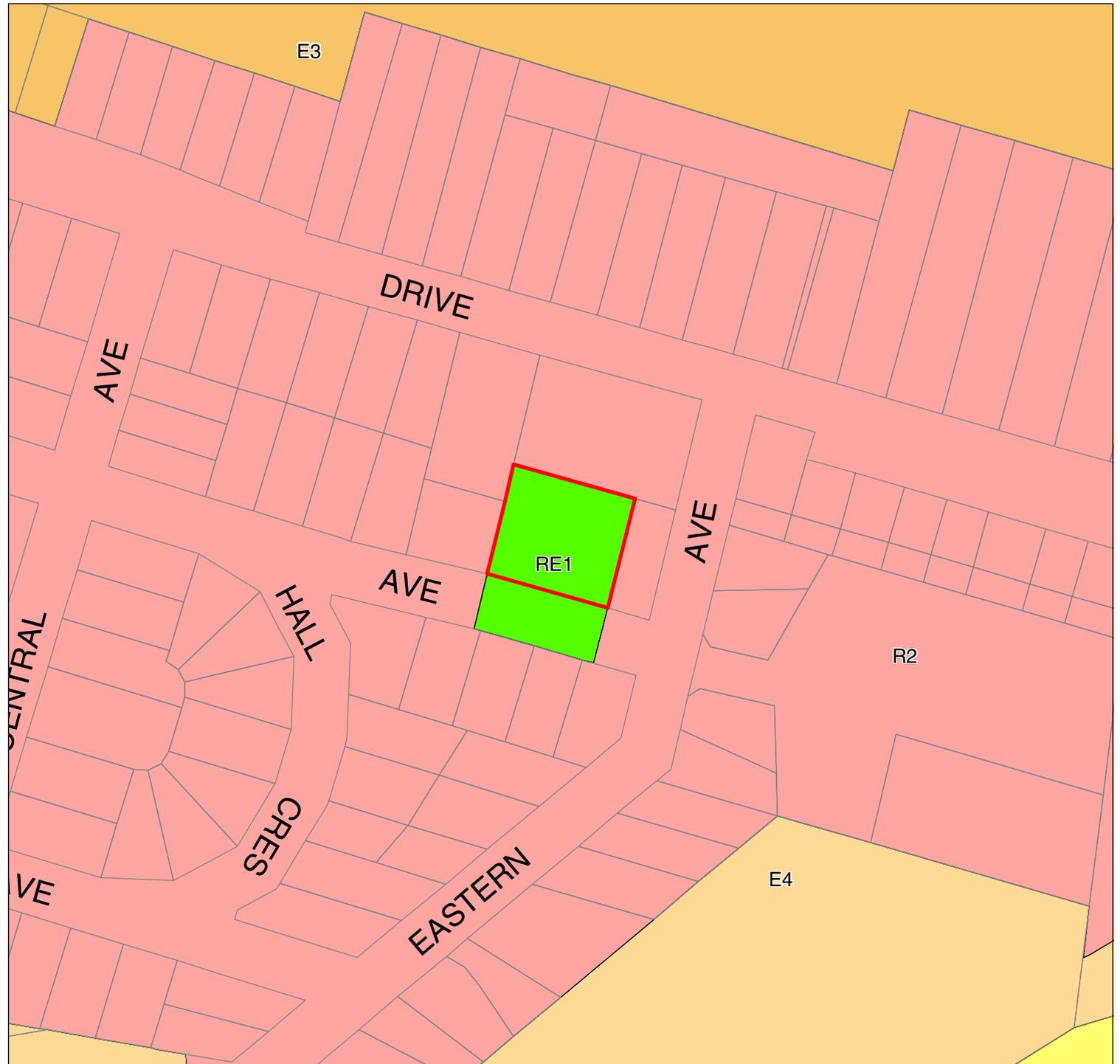
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- IN3 Heavy Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- RE1 Public Recreation
- RE2 Private Recreation
- SP1 Special Activities
- SP2 Infrastructure
- W2 Recreational Waterways
- UL Unzoned Land



Projection GDA 1994
Zone 56



Scale 1:2,000 @ A4





Newcastle Local Environmental Plan 2012

Proposed Land Zoning Map

Cadastral

- Cadastral base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site

Zone

- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use
- B5 Business Development
- E1 National Parks and Nature Reserves
- E2 Environmental Conservation
- E3 Environmental Management
- E4 Environmental Living
- IN1 General Industrial
- IN2 Light Industrial
- IN3 Heavy Industrial
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- RE1 Public Recreation
- RE2 Private Recreation
- SP1 Special Activities
- SP2 Infrastructure
- W2 Recreational Waterways
- UL Unzoned Land

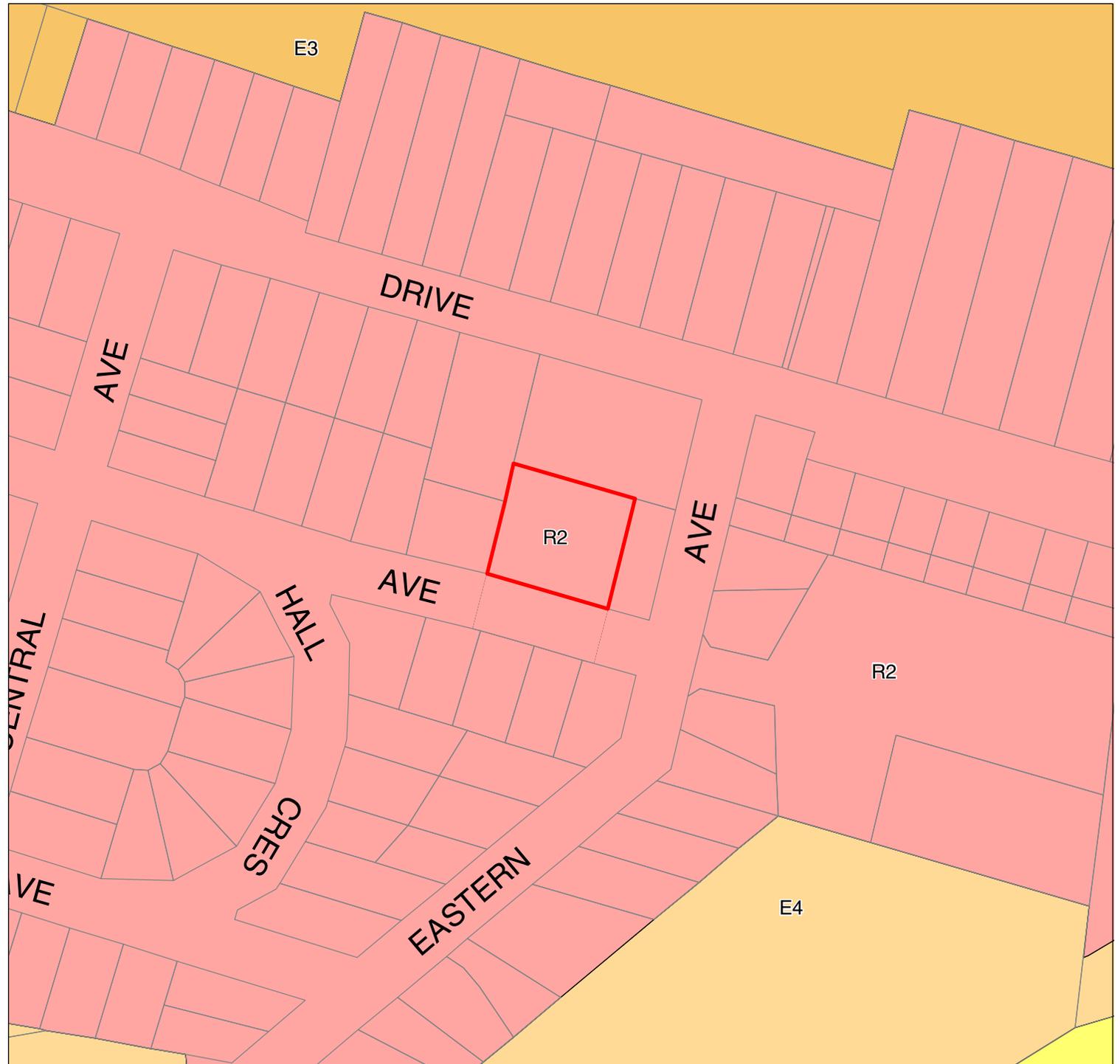


Projection GDA 1994
Zone 56



Scale 1:2,000 @ A4

Planning Proposal - 3 Northern Avenue Tarro - Proposed Land Zoning Map





Newcastle Local Environmental Plan 2012

Proposed Max Height of Building Map

Cadastral

▭ Cadastral base data 01/08/2007 © LPMA
▭ Addendum data 21/02/2013 © Newcastle City Council

▭ Subject Site

Maximum Building Height (m)

I	8.5
K	10
L	11
N	14
P1	17
P2	18
Q	20
R	21
S	24
U	30
V	35
X	45
AA	60
AB	90



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4



Newcastle Local Environmental Plan 2012

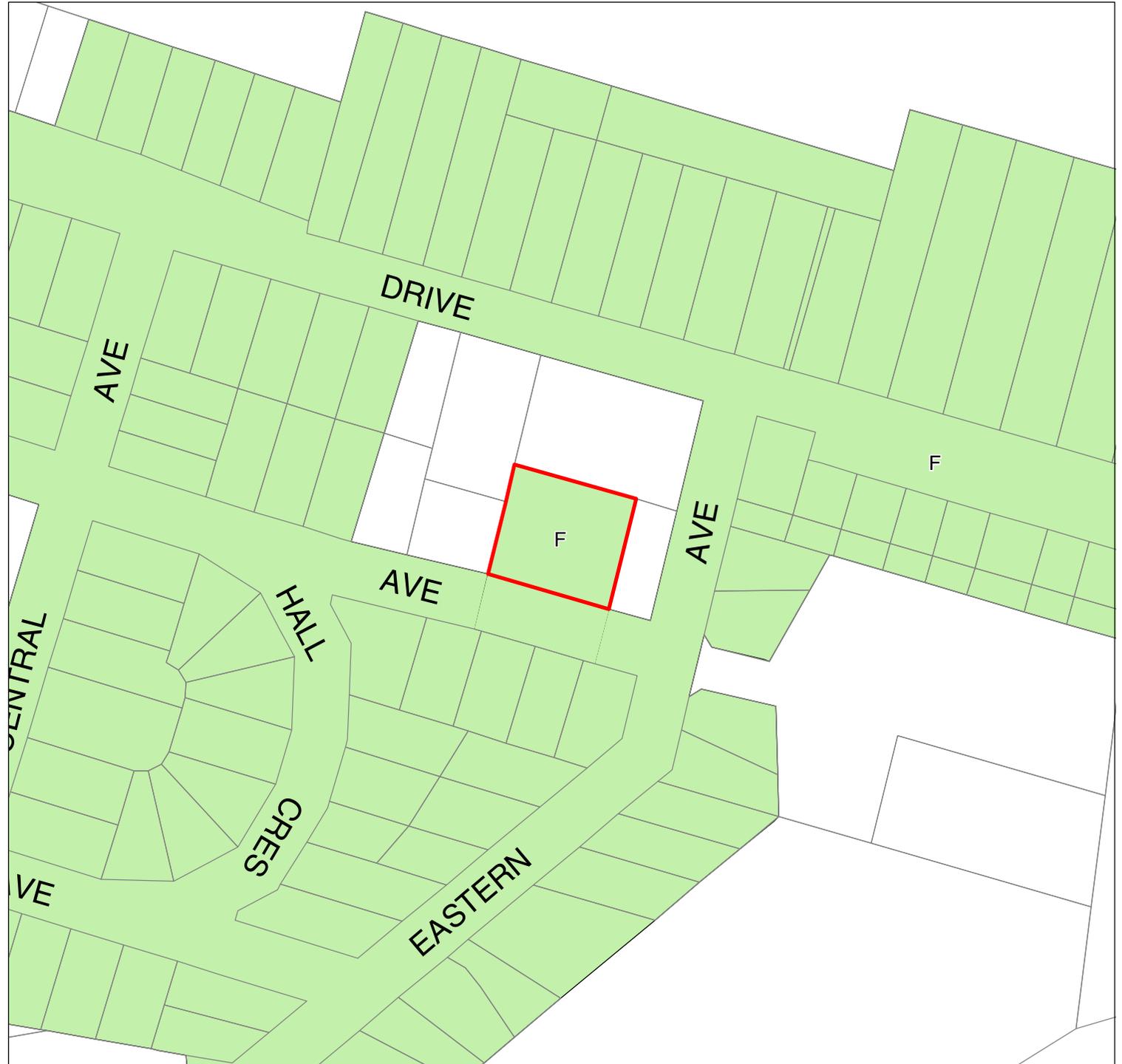
Proposed Max Floor Space Ratio Map

Cadastr

- Cadastr base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site

Maximum Floor Space (n:1)

- F 0.6
- I 0.75
- L 0.9
- N 1
- S 1.5
- T 2
- U 2.5
- V 3
- X 4
- Z 5
- AA 6
- AB 7
- AC 8



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4



Newcastle Local Environmental Plan 2012

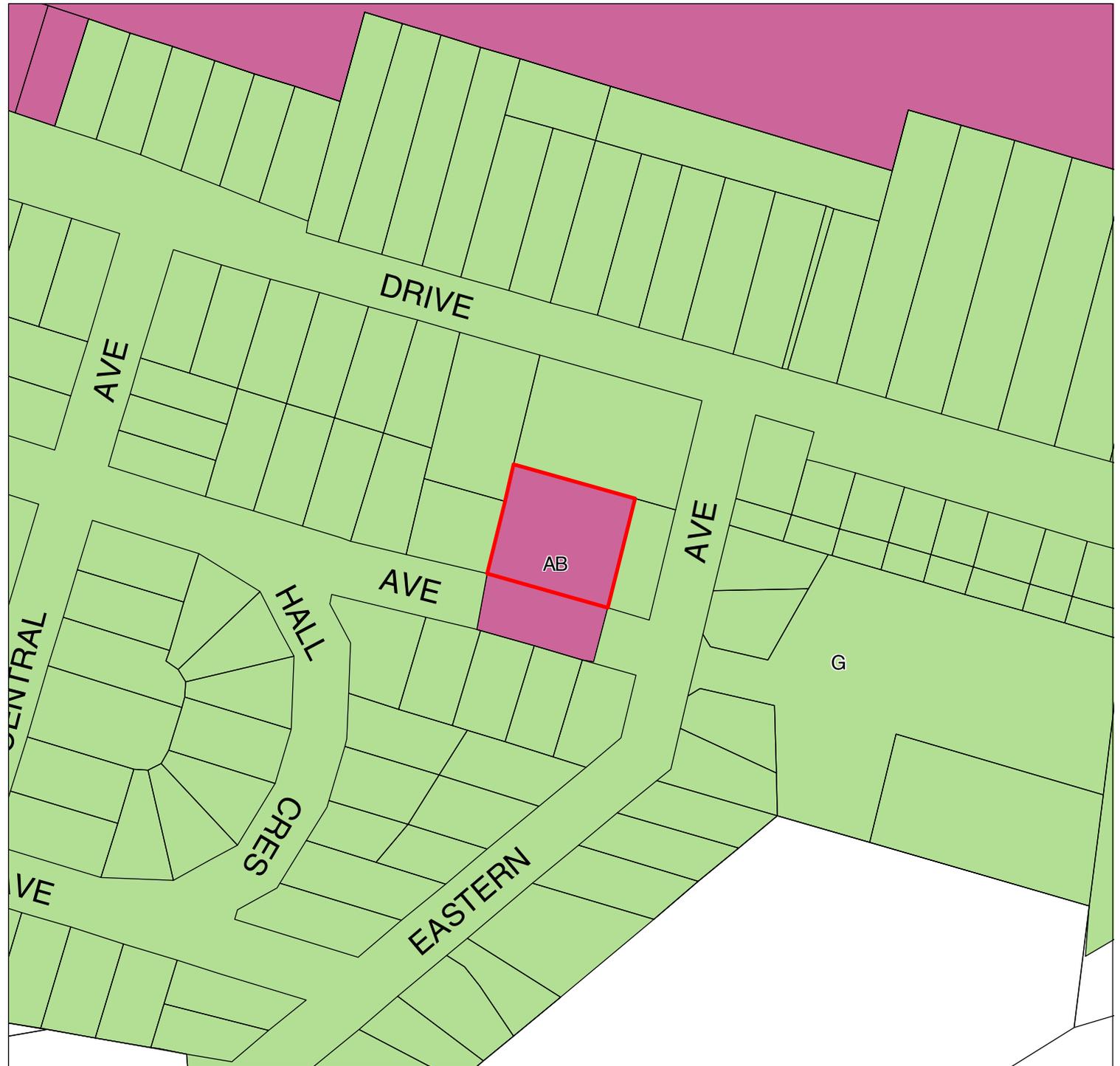
Existing Min Lot Size Map

Cadastral

- Cadastral base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site

Minimum Lot Size (sq m)

- F 400
- G 450
- U 1 000
- Y 10 000 (1 ha)
- Z 20 000 (2 ha)
- AB 400 000 (40 ha)



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4



Newcastle Local Environmental Plan 2012

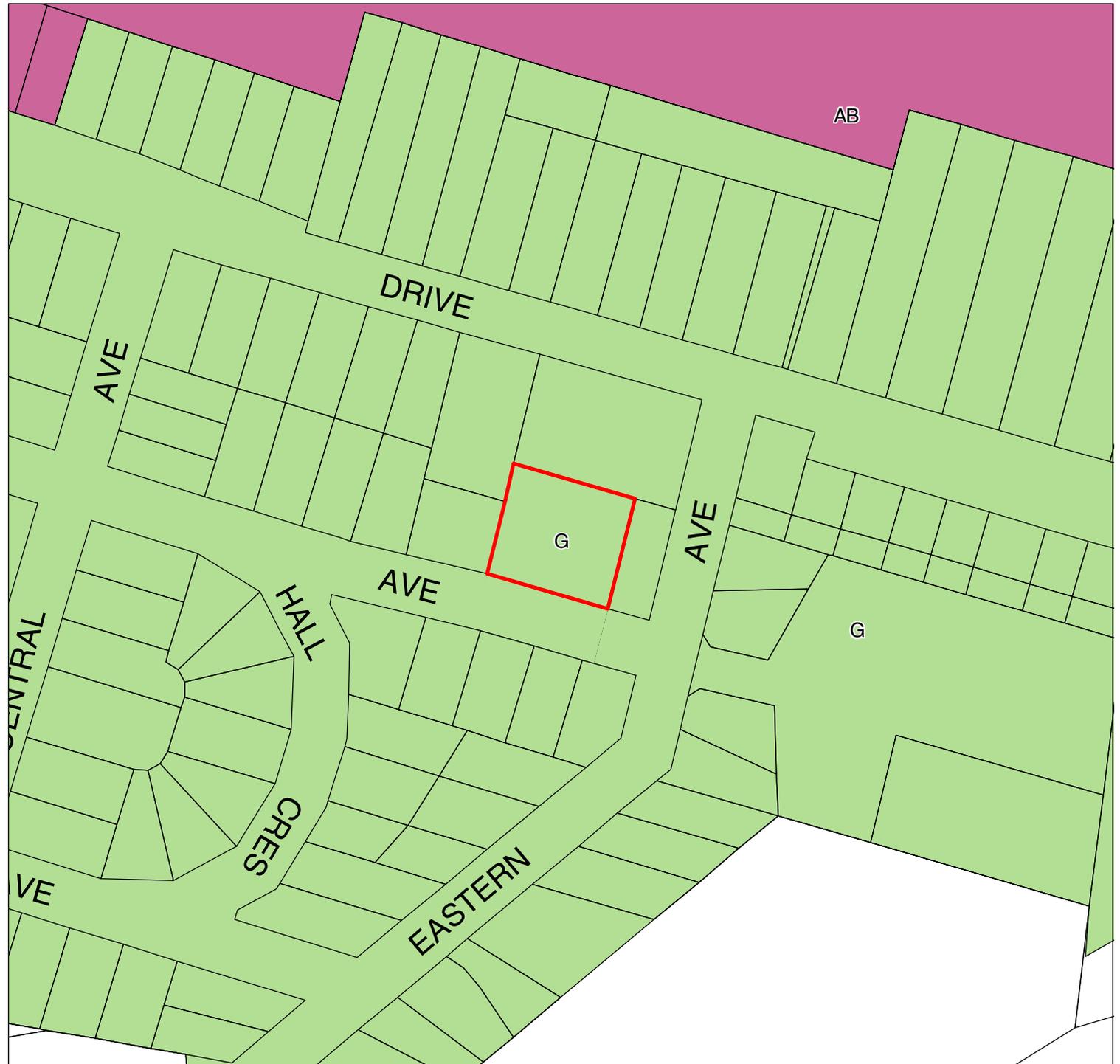
Proposed Min Lot Size Map

Cadastr

- Cadastre base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site

Minimum Lot Size (sq m)

- F 400
- G 450
- U 1 000
- Y 10 000 (1 ha)
- Z 20 000 (2 ha)
- AB 400 000 (40 ha)



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4



Newcastle Local Environmental Plan 2012

Existing Land Classification

Cadastral

□ Cadastre base data 01/08/2007 © LPMA
Addendum data 21/02/2013 © Newcastle City Council

□ Subject Site

Land Classification

■ Operational Land

■ Community Land



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4



Newcastle Local Environmental Plan 2012

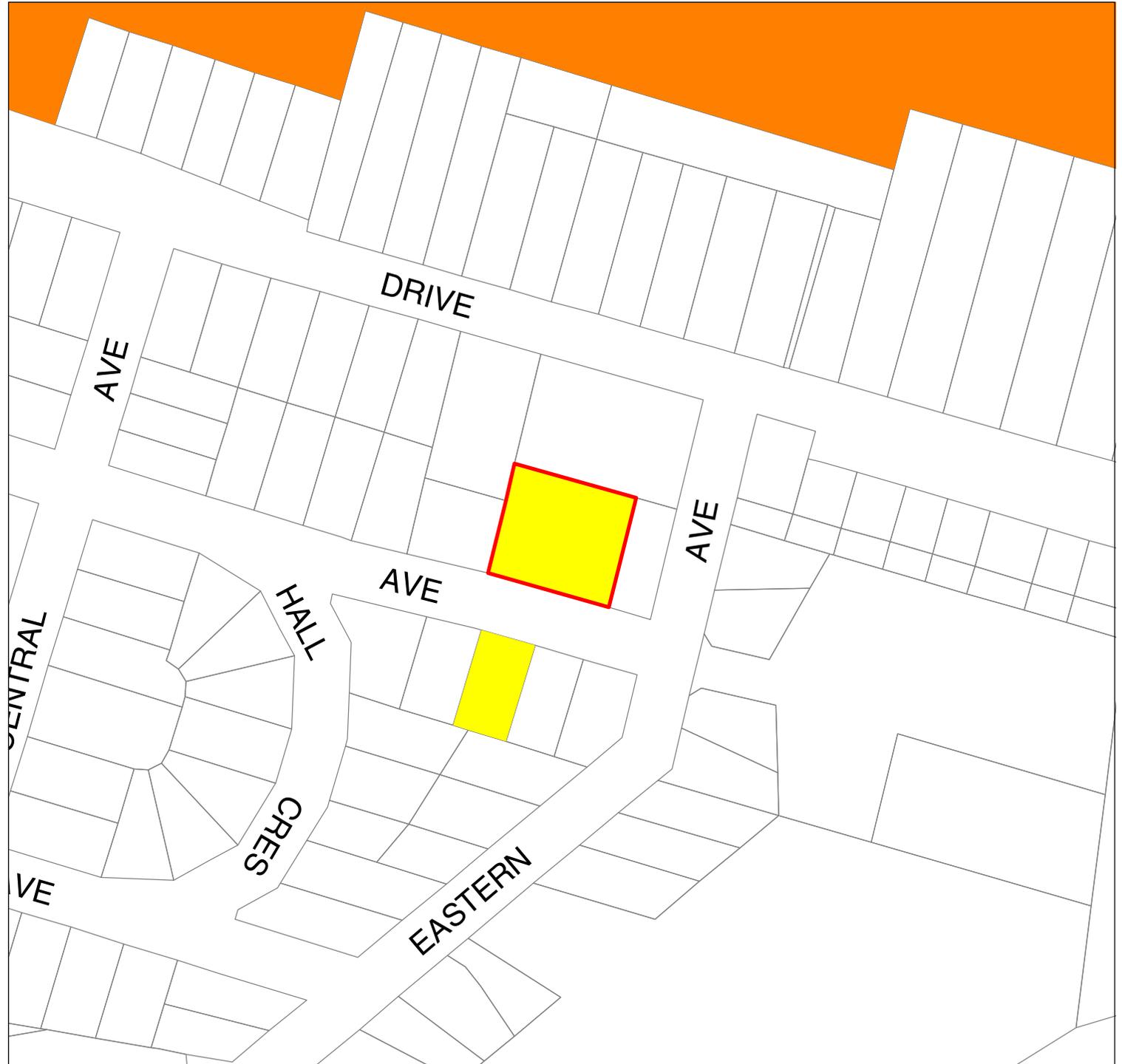
Proposed Land Classification

Cadastre

- Cadastre base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site

Land Classification

- Operational Land
- Community Land



Projection GDA 1994
Zone 56

0 50 100m

Scale 1:2,000 @ A4

PART 5 – COMMUNITY CONSULTATION

The proposal is not considered to be a low impact proposal as it includes the reclassification of community land.

The planning proposal will be exhibited for 28 days in accordance with the requirements of Section 57 of the EP&A Act 1979 and Section 29 of the Local Government Act 1993.

A public hearing will be required to be held in accordance with Department of Planning and Infrastructure Circular (PN09-003) after the close of the exhibition period. Public notice of the public hearing will be sent and published at least 21 days before the public hearing.

Relevant agencies will be consulted in accordance with the requirements of the gateway determination.

PART 6 – PROJECT TIMELINE

The project is expected to be completed within eight months from Gateway Determination. The following timetable is proposed:

Task	Planning Proposal Timeline											
	Mar 13	Apr 13	May 13	Jun 13	Jul 13	Aug 13	Sep 13	Oct 13	Nov 13	Dec 13	Jan 14	Feb 14
Issue of Gateway Determination		■										
Prepare any outstanding studies		■	■									
Consult with required State Agencies			■									
Exhibition of planning proposal and technical studies				■								
Review of submissions					■							
Public Hearing						■						
Prepare Council report							■					
Report to Council following exhibition / public hearing								■				
Planning Proposal sent back to Department requesting that the draft LEP be prepared									■			

Attachment A

LEP Practice Note PN 09-003



Note	PN 09–003
Date	12 June 2009
Related	Supersedes (re)classification advice in Best Practice Guideline (1997)

Classification and reclassification of public land through a local environmental plan

The purpose of this practice note is to update (and supersede) previous guidance on the process to classify or reclassify public land through a local environmental plan including a principal plan in accordance with the Standard Instrument.

Introduction

‘Public land’ is any land (including a public reserve) vested in, or under the control of, council. Exceptions include roads, land to which the *Crown Lands Act 1989* applies, a common, or land to which the *Trustees of Schools of Arts Enabling Act 1902* applies.

‘Community’ land is generally open to the public, for example, parks, reserves or sports grounds.

‘Operational’ land may be used for other purposes, for example, as works depots or garages, or held by council as a temporary asset.

‘Classification’ of public land refers to the process when this land is first acquired and first classified as either ‘operational’ land or ‘community’ land.

‘Reclassification’ of public land refers to the process of changing the classification of ‘operational’ land to ‘community’ land or from ‘community’ land to ‘operational’ land.

How is public land classified or reclassified?

Depending on circumstances, this is undertaken by either:

- resolution of council under section 31, 32 or 33 of the *Local Government Act 1993* (LG Act) [through section 27(2)], or
- a local environmental plan (LEP) under the *Environmental Planning and Assessment Act 1979* (EP&A Act) [through section 27(1) of the LG Act].

In both cases, it is not possible for councils to delegate their decision to classify or reclassify public land [section 377(1) of the LG Act]. Councils are encouraged to classify or reclassify land through the LG Act wherever circumstances conform to sections 31, 32 or 33 of the LG Act.

The remaining parts of this practice note identify the key areas councils must consider when proposing to classify or reclassify public land by means of a local environmental plan (LEP) under the second option.

This practice note supersedes the sections relating to classification and reclassification in *LEPs and council land*, Best Practice Guideline (Department of Urban Affairs and Planning 1997).

Procedure under the EP&A Act

Where classification or reclassification is proposed through an LEP, council is advised to include the proposal as early as possible in the draft LEP or planning proposal. If the public land to be classified or reclassified is not owned by council, landowner’s consent is required prior to either section 54 or section 56 of the EP&A Act (when the Part 3 amendment to the EP&A Act applies).¹

The proposal would then form part of the material presented through either section 54 or section 56 of the EP&A Act (when the Part 3 amendment to the EP&A Act applies).

¹ In relation to the Part 3 amendment, council should also check the changes to the EP&A Act and Regulation once these commence.

To assist councils, the steps in preparing material either as a draft LEP or planning proposal are summarised in Attachment 1. Column 1 of Attachment 1 sets out the requirements in accordance with the EP&A Act **prior to** the Part 3 amendment commencing. Column 2 of the attachment sets out the requirements **after** the Part 3 amendment commences. In relation to the Part 3 amendment, council should also check the savings and transitional arrangements under the EP&A Act, once these commence.

Where land is proposed to be reserved for a public purpose such as provision of public services and facilities, section 117 Direction 6.2—Reserving Land for Public Purposes applies. The Direction also sets out requirements when a reservation of public land for such purposes is no longer required.

A summary of relevant matters that need to be available at the time the planning proposal is first forwarded are listed in Attachment 2 under ‘Exhibition’. Other matters for exhibition and later stages are listed separately in that attachment.

Provisions in the Standard Instrument

The following Standard Instrument provisions are relevant to the classification and reclassification of public land.

Clause 5.2—Classification and reclassification of public land

The purpose of this clause is to enable councils to classify or reclassify public land identified in Schedule 4 of the Standard Instrument. Only public land to be classified or reclassified by publication on the NSW legislation website of that principal LEP is to be identified in the schedule. Schedule 4 must not contain a reference to any land already classified or reclassified.

Part 1 Schedule 4—change to ‘operational’ land, no interest changes

Land is identified in Part 1 of Schedule 4 where the trusts, estates, interests, dedications, conditions, restrictions or covenants over the land are to remain after reclassification to ‘operational land’, i.e. where **no** interests will change.

Part 2 Schedule 4—change to ‘operational’ land and an interest will change

Land is identified in Part 2 of Schedule 4 where the land is to be classified or reclassified as ‘operational land’ and some of the trusts, estates, interests, dedications, conditions, restrictions, or covenants over the land remain. The interests to remain are identified in column 3 of this part of the schedule.

Part 3 Schedule 4—change to ‘community’ land

Land proposed to be classified or reclassified as ‘community land’ through the LEP is identified in Part 3 of the schedule.

Where there is no land to be classified or reclassified through the LEP, the clause remains with the schedule empty.

General requirements for exhibition

Public exhibition of the LEP occurs after certification of the LEP (in accordance with section 66 of the EP&A Act). Public exhibition of a planning proposal may occur in accordance with section 57(2) (when the Part 3 amendment to the EP&A Act commences). To assist the public in understanding an exhibited draft LEP or planning proposal to classify or reclassify land, requirements are summarised in Attachment 2.

A copy of council’s response to these requirements together with a copy of this practice note is to be part of material displayed during public exhibition of an LEP or planning proposal to reclassify or classify public land.

Public hearing

A public hearing must be held when ‘community land’ is proposed to be reclassified as ‘operational land’.

To ensure council and the community have sufficient time to consider relevant matters associated with the proposed change, the public hearing is held **after** the close of the exhibition period under section 68 of the EP&A Act (section 29 of the LG Act) for an LEP and in accordance with section 57(6) (when the Part 3 amendment to the EP&A Act commences).

Public hearing provisions are set out in the EP&A Regulation (clause 14) and public notice of a hearing must be sent or published **at least 21 days** before the start of the public hearing.

The independence of the person chairing the public hearing and requirements relating to the preparation and inspection of reports from the hearing are specified in section 47G of the LG Act.

Further information

A copy of this practice note, Standard Instrument, and other specific practice notes and planning circulars on using the Standard Instrument, can be accessed on the Department’s website <http://www.planning.nsw.gov.au/lep/index.asp>

Authorised by:

Sam Haddad, Director-General

List of attachments:

1. Main steps (in sequence) for classifying and reclassifying public land under the *Environmental Planning and Assessment Act 1979*
2. General requirements for classification or reclassification of land through local environmental plans and planning proposals

Attachment 1. Main steps (in sequence) for classifying and reclassifying public land under the *Environmental Planning and Assessment Act 1979*

Requirements prior to commencement of the 2008 Part 3 amendment to the EP&A Act	Requirements after commencement of the 2008 Part 3 amendment to the EP&A Act when it applies to a proposal
<p>Council notifies the Department of a decision to prepare a draft LEP including a proposal to classify or reclassify public land (section 54 of the EP&A Act).</p> <p>This notification is accompanied by an appropriate level of information including for the following:</p> <ul style="list-style-type: none"> - a justification for the proposal - reasons why council acquired an interest - details that would also accompany a plan at exhibition stage (see Attachment 2) - any proposal to extinguish or retain other interests in the land through the reclassification - a justification /explanation as to why such interests are being extinguished - any rezoning associated with the classification/ reclassification - any preliminary comments by a relevant government agency, including agency's consent where land is vested or held by an agency other than council - consideration of any relevant directions e.g. section 117 Direction 6.2—Reserving Land for Public Purposes, where appropriate. 	<p>A planning proposal is forwarded by council to the Minister (new section 56 of the EP&A Act), including a proposal to classify or reclassify public land.</p> <p>This proposal contains an appropriate level of information including for the following:</p> <ul style="list-style-type: none"> - a justification for the planning proposal - reasons why council acquired an interest - details that would also accompany a plan at exhibition stage (see Attachment 2) - any proposal to extinguish or retain other interests in the land through the reclassification - a justification /explanation as to why such interests are being extinguished - any rezoning associated with the classification/ reclassification - any preliminary comments by a relevant government agency, including an agency in which the land is vested or held - consideration of any relevant directions, e.g. section 117 Direction 6.2—Reserving Land for Public Purposes, where appropriate.
<p>Consultation with relevant public agencies and other stakeholders (section 62 of the EP&A Act).</p>	<p>See below.</p>
<p>After consultation, council submits a draft LEP to the Department and, subject to the issue of a section 65 certificate, the draft LEP is exhibited for a minimum of 28 days and the public invited to provide written submissions to the exhibited LEP within the exhibition period.</p>	<p>Following review, at the gateway, if the planning proposal is to proceed, requirements for the various stages of the proposal, including consultation requirements, will be provided to council (new section 56(1), 56(2) of the EP&A Act).</p>
<p>Where a draft LEP includes reclassification of 'community' land to 'operational' land, council holds a public hearing into the proposal in accordance with section 68 of the EP&A Act (section 29 of the Local Government Act). *</p>	<p>Where a planning proposal includes reclassification of 'community' land to 'operational' land, council holds a public hearing into the proposal in accordance with new section 57(6) of the EP&A Act. *</p>
<p>Such a hearing follows the requirements of clause 14 of the EP&A Regulation including that a notice of the details for the hearing must be published in a local newspaper and sent to any person requesting a hearing a minimum of 21 days prior to the hearing.</p>	<p>Such a hearing follows the requirements of clause 14 of the EP&A Regulation including that a notice of the details for the hearing must be published in a local newspaper and sent to any person requesting a hearing a minimum of 21 days prior to the hearing.</p>
<p>Where it is considered appropriate, the draft LEP is submitted to the Director-General together with details of all submissions and the report of the public hearing, together with a statement of other matters set out in section 68 of the EP&A Act.</p>	<p>Consultation for a planning proposal under new section 57 of the EP&A Act is completed when council has considered any submissions made concerning the proposed instrument and the report of any public hearing.</p> <p>Where the planning proposal is to proceed, the Director-General makes arrangements for the drafting of the LEP to give effect to the final proposal (new section 59 of the EP&A Act).</p>
<p>The Director-General furnishes a report to the Minister if the Director-General is satisfied that the draft LEP has been prepared in accordance with any applicable standard instrument under section 33A (section 69 of the EP&A Act).</p>	
<p>The Minister determines whether to make the LEP under section 70 of the EP&A Act. **</p>	<p>The Minister (or Minister's delegate) determines whether to make the LEP under new section 59 of the EP&A Act. **</p>

Notes:

* Where a proposal includes a classification of 'operational' land to 'community' land, a public hearing is not generally required.

** Where a reclassification proposes to extinguish other interests in the land, the approval of the Governor is required in accordance with section 30 of the LG Act.

Attachment 2. General requirements for classification or reclassification of land through local environmental plans and planning proposals

Exhibition

When exhibiting a planning proposal or draft LEP to classify or reclassify public land, council must provide a written statement including the following:

- the reasons why the draft LEP or planning proposal is being prepared including the planning merits of the proposal, e.g. the findings of a centres' strategy, council's intention to dispose of the land, provision of open space in a town centre
- the current and proposed classification of the land
- the reasons for the reclassification including how this relates to council's strategic framework, council's proposed future use of the land, proposed zones, site specific requirements, e.g. heritage controls, anticipated physical or operational changes resulting from the reclassification
- council's ownership of the land, if this applies
- the nature of council's interest in the land, e.g. council has a 50 year lease over the site
- how and when the interest was first acquired, e.g. the land was purchased in 20XX through section 94
- the reasons council acquired an interest in the land, e.g. for the extension of an existing park; council was given responsibility for the land by a State agency
- any agreements over the land together with their duration, terms, controls, agreement to dispose of the land, e.g. whether any aspect of the draft LEP or planning proposal formed part of the agreement to dispose of the land and any terms of any such agreement
- an indication, as a minimum, of the magnitude of any financial gain or loss from the reclassification and of the type(s) of benefit that could arise e.g. council could indicate the magnitude of value added to the land based on comparable sites such as the land is currently valued at \$1500 per square metre, nearby land zoned for business development is valued at between \$2000 and \$5000 per square metre
- the asset management objectives being pursued, the manner in which they will be achieved and the type of benefits the council wants, i.e. without necessarily providing details of any possible financial arrangements, how the council may or will benefit financially
- whether there has been an agreement for the sale or lease of the land; the basic details of any such agreement and, if relevant, when council intends to realise its asset, either

immediately after rezoning/reclassification or at a later time

- Relevant matters required in plan making under the EP&A Act
- A copy of this practice note must be included in the exhibition material to assist the community in identifying information requirements. Council staff may wish to identify the column in Attachment 1 that applies.

Post-exhibition

Once a decision has been made regarding whether the draft LEP or planning proposal proceeds, everyone who made a written submission must be notified in writing of the decision.

Written notification must occur within 14 days of the decision and needs to clearly identify the reasons for council's decision. An explanation must be included of how issues raised in submissions were addressed including the reasons for council's decision.

The final report after exhibition to either the Director-General or the Minister should include:

- a brief summary of council's interest in the land
- issues raised in any relevant submissions
- the dates of the exhibition and the hearing
- an explanation of how issues raised were addressed or resolved.

Additional matters to be addressed when the Governor's approval is required

The Governor's approval is required for the extinguishment of public reserve status and other interests in land which a council proposes to reclassify from 'community' to 'operational' status under the LG Act.

Council must provide sufficient information in accordance with this practice note to inform the Minister of any public reserve and/or other third party property interests (e.g. trust, covenant, easement) that are proposed to be extinguished upon the making of such a draft LEP or planning proposal.

Important note

This note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this note.

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DOP 09_004

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Planning Proposal



Newcastle Eye Hospital, Waratah

(corner of Griffith, Lambton and Christo Roads, Waratah)

March 2013

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CORNER OF GRIFFITH, LAMBTON AND CHRISTO ROADS, WARATAH (Newcastle Eye Hospital)

Summary of Proposal

Proposal	Corner of Griffith, Lambton and Christo Roads, Waratah (Newcastle Eye Hospital)	
Property Details	Corner of Griffith, Lambton and Christo Roads, Waratah	Lots 1 and 2 DP 1114442, Lot 100 and 101 DP 569322, and Lot 2 DP 21366,
Applicant Details	deWitt Consulting on behalf of Newcastle Eye Hospital	

Background

Council has received a request to amend Newcastle LEP 2012 in order to enable hospitals to be included as 'permissible with consent' within the R2 Low Density Residential zone of Newcastle LEP 2012.

Although the requested amendment will affect all land zoned R2 Low Density Residential, the applicant's interest is specifically in relation to land owned by Newcastle Eye Hospital at Waratah, given the amendment would enable the applicant to prepare a development application for improvements to the existing hospital facility and incorporation of adjoining land.

The Site

The proposal consists of land at the corner of Griffith, Lambton and Christo Roads, Waratah, described as Lot 1 & 2 DP 1114442, Lot 100 & 101 DP 569322, Lot 2 DP 21366. The aforementioned roads, which the site fronts, carry considerable traffic and impact on the amenity of the area.

The site and adjoining land are zoned R2 Low Density Residential and predominantly consist of detached dwellings. The land to the southern side of Griffiths Road is zoned IN2 Light Industrial and consists of such land uses.

Figure 1: Local context of site demonstrates the above. **Figure 2:** Air photo of site shows the land of interest to this proposal, which currently contains vacant dwellings and are also used by staff of the hospital facility for off street parking.

Photo 1 to 4, below, further illustrates the existing facility and local streetscape.

Photo 1: *South western view of existing hospital facility from Griffith Road*



Photo 2: *Northern perspective of existing hospital facility from Christo Road*



Photo 3: *176,178 & 180 Christo Road Waratah, consisting part of the site and adjoining sites to the east*



Photo 4: *114 & 116 Griffiths Road Waratah, consisting part of the site and adjoining sites to the east*





Newcastle Local Environmental Plan 2012

Local Area Context Map

Cadastre

- Cadastre base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site
- Suburb boundary
- LGA boundary



Projection GDA 1994
Zone 56



Scale 1:5,000 @ A4



Newcastle Local Environmental Plan 2012

Site Air Photo Map

Cadastre

- Cadastre base data 01/08/2007 © LPMA
- Addendum data 21/02/2013 © Newcastle City Council
- Subject Site
- Suburb boundary



Projection GDA 1994
Zone 56



Scale 1:2,000 @ A4

Planning Proposal - Cnr Griffiths & Christo Roads Waratah Site Air Photo Map

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

The intent of this planning proposal is to enable the site to be developed for the use of a hospital.

PART 2 - EXPLANATION OF PROVISIONS

In order to achieve the intended outcome, it is proposed that Newcastle LEP 2012 be amended to include 'hospitals' as being "permitted with consent" in the R2 Low Density Residential zone.

The proposed amendment will apply to all land zoned R2 Low Density Residential within Newcastle LEP 2012, including the site.

The proposed amendment is shown in red below:

Zone R2 Low Density Residential

1 Objectives of zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.*

2 Permitted without consent

Environmental protection works; Home occupations

3 Permitted with consent

*Boarding houses; Child care centres; Community facilities; Dwelling houses; Educational establishments; Emergency services facilities; Exhibition homes; Exhibition villages; Flood mitigation works; Group homes; Home-based child care; **Hospitals**; Neighbourhood shops; Recreation areas; Residential accommodation; Respite day care centres; Roads; Tourist and visitor accommodation*

4 Prohibited

Backpackers' accommodation; Hostels; Rural workers' dwellings; Serviced apartments; any other development not specified in item 2 or 3."

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

No, the planning proposal is prepared in response to a request by the applicant to enable the redevelopment and expansion of an existing hospital facility on land which currently prohibits this use and to which existing use rights do not apply.

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

Yes, including hospitals as a permissible use within the R2 Low Density Residential Zone is considered the best option to achieve the intended outcome, as this option does not restrict permissibility to a specific site or area but allows for future growth of existing hospitals, where considered suitable under Section 79 (c) of the Environmental Planning and Assessment Act 1979.

Furthermore, it is unlikely for this planning proposal to result in an increase in new hospitals proposed across the city, given hospitals are already permitted within other zones under State Environmental Planning Policy – Infrastructure (2007).

Other options that were considered include:

- Rezoning the land to a zone in which hospitals are permitted. However, this option would result in a zoning which is otherwise inconsistent with Newcastle Urban Strategy. In addition this option would require further rezoning if the hospital required expansion in the future.
- Application of Schedule 1 to enable hospitals to be included as an additional permitted use on the land. Once again this option would require a further amendment if the hospital required expansion in the future.

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy (2006)

The Lower Hunter Regional Strategy applies to the land. The aim of this Strategy is to ensure that adequate land is available to accommodate the projected housing and employment growth in the Hunter Region over the next 25 years.

The proposal will enable the provision of health services to the community and contribute to generating further employment opportunities and is therefore considered consistent with this aim.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Newcastle 2030 Community Strategic Plan

Council adopted the Newcastle 2030 Community Strategic Plan in February 2011. The planning proposal primarily aligns to the strategic direction 'Open and Collaborative Leadership' identified within the Newcastle Community Strategic Plan 2030.

Compliance with the LEP amendment process, in particular section 57 – community consultation of the Environmental Planning and Assessment (EP&A) Act 1979, will assist in achieving the strategic objective; "Consider decision-making based on collaborative, transparent and accountable leadership" and the identified strategy 7.2(b), which states: "Provide opportunities for genuine and representative community engagement in local decision making".

Newcastle Urban Strategy (NUS)

The proposal is consistent with the principles, strategies, identified within the NUS. The proposal will enable opportunities for employment and community health services and will not adversely impact on the hierarchy of existing commercial centres.

The site is on a major transport route, accessible by public transport, and is located nearby to other medical serviced infrastructure.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Consistency (of the planning proposal) with State Environmental Planning Policies is outlined in the table below.

Table 1 - Consideration of State Environmental Planning Policies

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 1—Development Standards	No	
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No	
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	
State Environmental Planning Policy No 14—Coastal Wetlands	No	
State Environmental Planning Policy No 15—Rural Land sharing Communities	No	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	
State Environmental Planning Policy No 21—Caravan Parks	No	
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	
State Environmental Planning Policy No 26—Littoral Rainforests	No	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	
State Environmental Planning Policy No 30—Intensive Agriculture	No	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No	
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	
State Environmental Planning Policy No 36—Manufactured Home Estates	No	
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	
State Environmental Planning Policy No 44—Koala Habitat Protection	Yes	Yes, there are no known records of koalas on site.
State Environmental Planning Policy No 47—Moore Park Showground	No	

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 50—Canal Estate Development	No	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	
State Environmental Planning Policy No 55—Remediation of Land	No	
State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area	No	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	
State Environmental Planning Policy No 64—Advertising and Signage	Yes	Yes, future signage on the site will be compatible with the desired amenity and visual character of the local area.
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	
State Environmental Planning Policy No 71—Coastal Protection	No	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	
State Environmental Planning Policy (Infrastructure) 2007	No	
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	
State Environmental Planning Policy (Major Development) 2005	No	
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy (Rural Lands) 2008	No	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No	
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	
SEPP (State and Regional Development) 2011	No	

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Consistency (of the planning proposal) with Ministerial Directions is outlined in the table below.

Table 2 - Consideration of Section 117 Direction

S117 Direction	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	No	
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Yes	Yes, the planning proposal does not contain provisions which will reduce the permissible residential density of land but will enable an additional non-residential use within the R2 zone. Hence, effectively resulting in a minor reduction of existing housing stock. However, the proposal will have a lesser impact on the potential loss of dwellings than by permitting hospitals within higher density residential zones, which is already permitted under SEPP Infrastructure (2007).
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	

S117 Direction	Applicable	Consistent
3.4 Integrating Land Use and Transport	Yes	Yes, the proposal is consistent with the objectives of this direction as the site is strategically located for the proposed use and will not affect transport choices.
3.5 Development Near Licensed Aerodromes	No	
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes, the planning proposal is consistent with the Lower Hunter Regional Strategy and does not undermine achievement of its vision, land use strategy, policies, outcomes, or actions.
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.8 Second Sydney Airport: Badgerys Creek	No	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	

Section C - Environmental, social, and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The site is currently developed for urban purposes and the planning proposal has no potential for critical habitat or threatened species, populations or ecological communities, or their habitats, to be adversely affected.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

Mine Subsidence

The site is not located within a Mine Subsidence District.

Hydrology and Water Management

The site is not located within a flood prone area.

Bushfire

According to Newcastle Bush Fire Hazard Map (2009) the land is not affected by bushfire risk or in the vicinity of such a risk

Heritage

There are no listed items of environmental heritage on site or in the vicinity of the site.

Contamination

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.

Traffic Impacts and Vehicular and Pedestrian Access

The proposal may result in an increase in traffic generation, due to the expansion of an existing hospital facility. However, such details will be assessed should a development proposal result from this proposal.

9. Has the planning proposal adequately addressed any social and economic effects?

The site does not contain any items of European or Aboriginal cultural heritage.

The planning proposals will have a positive impact on the social environment by improving the quality and range of hospital services and facilities available to the community.

An amendment as proposed will not result in hospitals being developed throughout the LGA within the residential zoned lands and nonetheless would require vigorous merit based assessment.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

The site is within an existing urban area and is adequately serviced by infrastructure utilities.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No State and Commonwealth public authorities have been consulted at this stage but will be carried out in accordance with the requirements of the gateway determination.

PART 4 – MAPPING

The Planning proposal does not seek to amend any maps within Newcastle LEP 2012

PART 5 – COMMUNITY CONSULTATION

The planning proposal is considered as low impact in accordance with the Department of Planning's guidelines, 'A guide to preparing local environmental plans'. Hence, it is proposed that the planning proposal will be publicly exhibited for a minimum 14 day period.

Council has not identified any agencies to consult prior to public exhibition of the planning proposal but will do so if required as a condition of the gateway determination.

PART 6 – PROJECT TIMELINE

The project is expected to be completed within six months from Gateway Determination. The following timetable is proposed:

Task	Planning Proposal Timeline												
	Mar 13	Apr 13	May 13	Jun 13	Jul 13	Aug 13	Sep 13	Oct 13	Nov 13	Dec 13	Jan 14	Feb 14	
Issue of Gateway Determination													
Prepare any outstanding studies													
Consult with required State Agencies													
Exhibition of planning proposal and technical studies													
Review of submissions and preparation of report to Council													
Report to Council following exhibition													
Planning Proposal sent back to Department requesting that the draft LEP be prepared													

Planning Proposal



Clause 4.1A

(Exceptions to minimum lot sizes for certain residential development)

March 2013

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CLAUSE 4.1A (EXCEPTIONS TO MINIMUM LOT SIZES FOR CERTAIN RESIDENTIAL DEVELOPMENT)

Summary of Proposal

Proposal Instrument amendment – Clause 4.1A Exceptions to minimum lot sizes for certain residential development

Background

Newcastle LEP 2012 contains the following clause:

4.1A Exceptions to minimum lot sizes for certain residential development

- (1) *The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) *This clause applies to development on land in the following zones:*
 - (a) *Zone R2 Low Density Residential,*
 - (b) *Zone R3 Medium Density Residential,*
 - (c) *Zone B1 Neighbourhood Centre,*
 - (d) *Zone B2 Local Centre,*
 - (e) *Zone B4 Mixed Use.*
- (3) *Development consent may be granted to a single development application for development to which this clause applies that is both of the following:*
 - (a) *the subdivision of land into 2 or more lots,*
 - (b) *the erection of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision, if the size of each lot is equal to or greater than 200 square metres.*

The minimum lot size for the subdivision of land for residential purposes is 400m² (eastern planning district) or 450m² (western planning district). The intent of clause 4.1A is to permit the subdivision of land into smaller lots sizes, down to 200m², if a development application is approved at the same time for the dwellings to be erected on the land.

However, the wording of the clause appears to restrict the subdivision of land into smaller lots when it is proposed to retain a dwelling on one of the lots because subclause (3)(b) states that there must be the *erection* of a dwelling on 'each' of the lots created.

It is not uncommon in Newcastle for the owner of a site with an existing dwelling to propose the subdivision of the land into two lots, retain the existing dwelling on one lot and propose the erection of a new dwelling on the other. Clause 4.1A does not permit this type of development.

Prior to the adoption of the Standard Instrument LEP, Council did not have minimum lot sizes for the subdivision of multi unit housing in its LEP. As part of the conversion of Council's 2003 LEP into the standard LEP format the Department of Planning and Infrastructure required the adoption of its model clause 4.1A as shown above.

It was not Council's intention in preparing the Newcastle 2012 LEP to preclude subdivision of land that proposes the retention of an existing dwelling on one of the resultant lots as a form of development within Newcastle.

Council considered a report on this matter at its meeting held on 4 December 2012 where it resolved to grant delegations to the General Manager to determine variations to the minimum lot size permitted under clause 4.1 Minimum subdivision lot size, so that applications that proposed the retention of a dwelling in the redevelopment of sites did not have to be reported to Council for determination. The granting of delegations was considered an interim measure until the clause could be amended and clarified.

Site

The planning proposal applies to all land where attached dwellings, semi-detached dwellings or dwelling houses are permissible with consent, i.e. the R2 Low Density zone, R3 Medium Density zone, B1 Neighbourhood Centre zone, B2 Local Centre zone and B4 Mixed Use zone.

PART 1 - OBJECTIVES OR INTENDED OUTCOMES

The objective is to amend clause 4.1A to clarify that it may also apply to development that retains an existing dwelling on a lot created under its provisions.

PART 2 - EXPLANATION OF PROVISIONS

Amend clause 4.1A to read:

- (1) *The objective of this clause is to encourage housing diversity without adversely impacting on residential amenity.*
- (2) *This clause applies to development on land in the following zones:*
 - (a) *Zone R2 Low Density Residential,*
 - (b) *Zone R3 Medium Density Residential,*
 - (c) *Zone B1 Neighbourhood Centre,*
 - (d) *Zone B2 Local Centre,*
 - (e) *Zone B4 Mixed Use.*
- (3) *Development consent may be granted to a single development application for development to which this clause applies that is both of the following:*
 - (a) *the subdivision of land into 2 or more lots,*
 - (b) ***the erection or retention*** *of an attached dwelling, a semi-detached dwelling or a dwelling house on each lot resulting from the subdivision, if the size of each lot is equal to or greater than 200 square metres.*

PART 3 – JUSTIFICATION

Section A - Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report?

No. The planning proposal is the result of the interpretation of clause 4.1A and its unintended restriction on certain forms of residential accommodation.

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

Yes, amendment to the clause is the best means of achieving the objective. An alternative could be to remove minimum lot sizes for subdivision of multi unit housing from the LEP. Prior to the adoption of the Standard Instrument LEP, Council did not have minimum lot sizes for 'urban housing' in its LEP. However, the Department of Planning and Infrastructure required the adoption of this model clause as part of the conversion to the Standard Instrument.

Section B - Relationship to strategic planning framework

3. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

Lower Hunter Regional Strategy (2006)

The Lower Hunter Regional Strategy applies to the land. The aim of this Strategy is to ensure that adequate land is available to accommodate the projected housing and employment growth in the Hunter Region over the next 25 years.

The planning proposal is aimed at encouraging the delivery of a variety of housing types.

4. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Newcastle 2030 Community Strategic Plan

Council adopted the Newcastle 2030 Community Strategic Plan in February 2011. The planning proposal primarily aligns to the strategic direction 'Open and Collaborative Leadership' identified within the Newcastle Community Strategic Plan 2030.

Compliance with the LEP amendment process, in particular section 57 – community consultation of the Environmental Planning and Assessment (EP&A) Act 1979, will assist in achieving the strategic objective; "Consider decision-making based on collaborative, transparent and accountable leadership" and the identified strategy 7.2b, which states: "Provide opportunities for genuine and representative community engagement in local decision making".

Newcastle Urban Strategy (NUS)

The Newcastle Urban Strategy is based on the principles of Newcastle Urbanism. The aim of Newcastle Urbanism is to:

Provide greater choices to the community, in terms of access to housing, employment, transport, and social and cultural services, while offering reduced travel demand, improved air quality and greater identity for Newcastle, its city centre, and its district and neighbourhood centres.

The planning proposal is consistent with the principles of the NUS. The objective of the planning proposal is to remove a restriction on the subdivision of land for certain residential development.

5. Is the planning proposal consistent with applicable state environmental planning policies?

Consistency (of the planning proposal) with State Environmental Planning Policies is outlined in the table below.

Table 1 - Consideration of State Environmental Planning Policies

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 1—Development Standards	No	
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	No	
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	
State Environmental Planning Policy No 14—Coastal Wetlands	No	
State Environmental Planning Policy No 15—Rural Landsharing Communities	No	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	
State Environmental Planning Policy No 21—Caravan Parks	No	
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	
State Environmental Planning Policy No 26—Littoral Rainforests	No	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	
State Environmental Planning Policy No 30—Intensive Agriculture	No	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	Yes	Consistent
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	
State Environmental Planning Policy No 36—Manufactured Home Estates	No	
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	
State Environmental Planning Policy No 44—Koala Habitat Protection	No	
State Environmental Planning Policy No 47—Moore Park Showground	No	

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy No 50—Canal Estate Development	No	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	
State Environmental Planning Policy No 55—Remediation of Land	No	
State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area	No	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	
State Environmental Planning Policy No 64—Advertising and Signage	No.	
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	
State Environmental Planning Policy No 71—Coastal Protection	No	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	No	
State Environmental Planning Policy (Infrastructure) 2007	No	
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	
State Environmental Planning Policy (Major Development) 2005	No	
State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	No	

Name of SEPP	Applicable	Consistency
State Environmental Planning Policy (Rural Lands) 2008	No	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No	
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	
SEPP (State and Regional Development) 2011	No	

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

Consistency (of the planning proposal) with Ministerial Directions is outlined in the table below.

Table 2 - Consideration of Section 117 Direction

S117 Direction	Applicable	Consistent
1. Employment and Resources		
1.1 Business and Industrial Zones	Yes	Yes. The planning proposal affects residential development in the B1, B2 and B4 zones. It is consistent with the objective of supporting the viability of centres.
1.2 Rural Zones	No	
1.3 Mining, Petroleum Production and Extractive Industries	No	
1.4 Oyster Aquaculture	No	
1.5 Rural Lands	No	
2. Environment and Heritage		
2.1 Environment Protection Zones	No	
2.2 Coastal Protection	No	
2.3 Heritage Conservation	No	
2.4 Recreation Vehicle Areas	No	
3. Housing, Infrastructure and Urban Development		
3.1 Residential Zones	Yes	Yes. The planning proposal is consistent with the objective of this direction to encourage a variety of housing types.
3.2 Caravan Parks and Manufactured Home Estates	No	
3.3 Home Occupations	No	
3.4 Integrating Land Use and Transport	No	
3.5 Development Near Licensed Aerodromes	No	

S117 Direction	Applicable	Consistent
4. Hazard and Risk		
4.1 Acid Sulfate Soils	No	
4.2 Mine Subsidence and Unstable Land	No	
4.3 Flood Prone Land	No	
4.4 Planning for Bushfire Protection	No	
5. Regional Planning		
5.1 Implementation of Regional Strategies	Yes	Yes. The planning proposal is consistent with the Lower Hunter Regional Strategy and does not undermine achievement of its vision, land use strategy, policies, outcomes, or actions.
5.2 Sydney Drinking Water Catchments	No	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	
5.8 Second Sydney Airport: Badgerys Creek	No	
6. Local Plan Making		
6.1 Approval and Referral Requirements	No	
6.2 Reserving Land for Public Purposes	No	
6.3 Site Specific Provisions	No	

Section C - Environmental, social, and economic impact

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No.

9. Has the planning proposal adequately addressed any social and economic effects?

Yes. The planning proposal allows the retention of existing dwellings and the provision of different dwelling types, thereby creating greater housing choice to the community.

Section D - State and Commonwealth interests

10. Is there adequate public infrastructure for the planning proposal?

Yes.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

State and Commonwealth public authorities will be consulted in accordance with the requirements of the gateway determination.

PART 4 – MAPPING

The Planning proposal does not seek to amend any maps within Newcastle LEP 2012.

PART 5 – COMMUNITY CONSULTATION

The planning proposal is considered as low impact in accordance with the Department of Planning’s guidelines, ‘A guide to preparing local environmental plans’. Hence it is proposed that the planning proposal will be publicly exhibited for a minimum 14 day period.

Any other relevant agencies will be consulted in accordance with the requirements of the gateway determination.

PART 6 – PROJECT TIMELINE

The project is expected to be completed within six months from Gateway Determination. The following timetable is proposed:

	Mar 13	Apr 13	May 13	Jun 13	Jul 13	Aug 13	Sep 13	Oct 13	Nov 13	Dec 13	Jan 14	Feb 14
Issue of Gateway Determination												
Prepare any outstanding studies												
Consult with required State Agencies												
Exhibition of planning proposal and technical studies												
Review of submissions and preparation of report to Council												
Report to Council following exhibition												
Planning Proposal sent back to Department requesting that the draft LEP be prepared												