

Rezoning of land bounded by Mosbri Crescent and Kitchener Parade, The Hill

Proposal Title : **Rezoning of land bounded by Mosbri Crescent and Kitchener Parade, The Hill**

Proposal Summary : **The planning proposal (PP) would rezone the land bounded by Mosbri Crescent and Kitchener Parade, The Hill so as to enable it to be redeveloped for medium density residential housing.**

This would involve changing the zone in the Newcastle LEP 2012 from R2 Low Density Residential to R3 Medium Density Residential. The maximum building height and floor space ratio would also change.

The site is currently made up of the existing NBN television studios and the residential flat buildings adjoining the studios to the west.

PP Number : **PP_2016_NEWCA_010_00**

Dop File No : **16/15412**

Proposal Details

Date Planning
Proposal Received : **12-Dec-2016**

LGA covered : **Newcastle**

Region : **Hunter**

RPA : **Newcastle City Council**

State Electorate : **NEWCASTLE**

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

LEP Type : **Spot Rezoning**

Location Details

Street : **1, 3, 5, 7, 9, 11 to 17 Mosbri Crescent**

Suburb : **The Hill**

City :

Postcode : **2300**

Land Parcel : **SP 6373, lot 10 DP 216346, SP 3057, lot 12 DP 216346, lot 13 DP 216346, lot 1 DP 204077**

Street : **31, 37, 41 Kitchener Parade**

Suburb : **The Hill**

City :

Postcode : **2300**

Land Parcel : **lot 8 DP 216346, SP19610, lot 62 DP 522440**

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DoP Planning Officer Contact Details

Contact Name : Ben Holmes
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RPA Contact Details

Contact Name : Steve Masia
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DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	Hunter Regional Plan 2036	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	189
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :			

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

Supporting notes

Internal Supporting Notes :

External Supporting Notes : Newcastle Council resolved not to seek to exercise delegations in relation to this matter. Council did not advise why it chose not to accept delegations. Consistent with Council's requested delegations have not been recommended.

Council submitted a request for a Gateway determination for this matter on 30 November 2016. Further information was sought and received on 12 December 2016 and it is this date that the proposal was considered adequate.

Adequacy Assessment

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

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

Comment : **The Objectives clearly state the intended outcome for the PP which is the enable to development of the land for medium density housing.**

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

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

Comment : **The Explanation of Provisions details the relevant aspects of the LEP that is to change. It includes changing the:**
- zoning from R2 Low Density Residential to R3 Medium Density Residential zone;
- maximum building heights from 8.5 m to 11 m and 12 m (three to four storeys) and a number of reduced level heights up to RL 56.8 (seven storeys); and
- floor space ratio from 0.75:1 to 0.9:1 (land to the west of NBN) and 1.5:1 (NBN site).

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

**2.2 Coastal Protection
2.3 Heritage Conservation
3.1 Residential Zones
3.3 Home Occupations
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.2 Mine Subsidence and Unstable Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.3 Site Specific Provisions**

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 65—Design Quality of Residential Flat Development
SEPP No 71—Coastal Protection
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Infrastructure) 2007**

e) List any other matters that need to be considered :

PLAN-MAKING DELEGATION

Council has requested that plan-making delegation not be given.

COMPLETION TIMEFRAME

Council has indicated that it would likely take 12 months to progress the PP (this includes finalisation by the Department. A 12 month timeframe is considered sufficient.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Further discussion on s117 direction inconsistency is provided in the "Consistency with the Strategic Planning Framework" section of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Council has included maps which show the existing LEP controls and proposed changes**

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in the context of the controls applying in the immediate locality.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed a two month exhibition period. As Council intends to exhibit a DCP chapter and as this would represent an increase in development intensity in this locality, it is recommended that Council be required to exhibit the PP for a minimum of 28 days.

Additional Director General's requirements

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

If Yes, reasons : **PLAN-MAKING DELEGATION**

Council has requested that plan-making delegation not be given.

COMPLETION TIMEFRAME

Council's project plan suggests the PP could be progressed within a 12 month timeframe. This timeframe is supported.

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Newcastle LEP 2012 commenced in June 2012.**

Assessment Criteria

Need for planning proposal :

Council states that the PP is the result of its Local Planning Strategy which includes a specific action to investigate rezoning the NBN site to R3 Medium Density Residential zone.

NBN has indicated that it is to seek different premises and as a result the site will become vacant. As the site is large, contains existing development, and is not currently used for residential purposes, it is appropriate that the planning controls for this site be reviewed.

The PP aligns with the vision and objectives of Council's local strategy and is consistent with the objectives of the Hunter Regional Plan which seeks to facilitate opportunities to redevelop large sites (such as this one) for residential development.

The increased densities and height proposed are also generally supported given the topography of the site and the urban design work Council has undertaken to demonstrate their suitability.

The PP would also rezone the land currently developed for residential which adjoins the NBN site to the west. It states that this land has been included because it is a logical extension. Council further explained that the additional land was primarily considered to rationalise the zoning for the wider block as opposed to just the 'requested' site. The location of the land satisfies the zoning directions for an R3 Medium Density residential zone, established under Council's Local Planning Strategy (as outlined in the PP). The additional land already comprises a number of lower scaled residential flat buildings.

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Council staff noted that the existing Cooks Hill heritage conservation area covers other land within the vicinity which would limit further expansion of the R3 zone. In particular Council are currently considering investigating expansion of the heritage conservation area further to the east and the exclusion of this land from the proposal is supported. The land application of the PP is considered appropriate.

The need for the PP is considered justified.

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Consistency with
strategic planning
framework :

HUNTER REGIONAL PLAN (HRP)

The PP is consistent with the specific regional priorities for Newcastle in the HRP. The proposal would provide an opportunity for increased density in an area that would support the growth of the Newcastle City Centre urban renewal corridor and would provide the opportunity for a large site to be redeveloped for infill housing.

LOWER HUNTER REGIONAL STRATEGY (LHRS)

The LHRS is to be superseded by the HRP however for now it remains relevant due to s117 direction 5.1 being in place (soon to be repealed).

The PP is consistent with the LHRS because it aligns with the housing and centres objectives of the Strategy. Specifically, it would help achieve infill dwelling targets for Newcastle and is consistent with the action to maximise redevelopment and infill opportunities for medium density housing within walking distance of a centre (Newcastle City Centre corridor).

NEWCASTLE 2030 COMMUNITY STRATEGIC PLAN (CSP)

Council states that the PP is consistent with its CSP, particularly objectives about engaging with the community on local decision making, providing a greater diversity of housing stock to cater for future needs, and for the built environment to enhance a sense of identity. While the CSP is high level document, the PP provides the opportunity of these objectives to be achieved for this site.

LOCAL PLANNING STRATEGY (LPS)

As already discussed the PP aligns with this local strategy, specifically its vision for The Hill to support opportunities for an expanded population, and objectives relating to facilitating medium density development in this locality. Council states that it would also deliver action 4.1.2 which is to investigate the potential for the NBN site to be rezoned to R3.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

Council has identified various SEPPs as being relevant to this proposal, some of which are more relevant to a possible DA should this PP be finalised (BASIX SEPP, Infrastructure SEPP). Council states that while SEPP 44 Koala Habitat Protection applies, no koala habitat is located on site.

Of note of the SEPPs identified by Council is SEPP 55 Remediation of Land, SEPP 65 Design Quality of Residential Flat Development and SEPP 71 Coastal Protection.

SEPP 55 - Council states that there is no known contamination on the site and that current and former uses suggest contamination is unlikely. The Department notes that the land is already zoned for residential purposes (R2) and so is satisfied that contamination may be examined at the DA stage should the land be rezoned and a DA submitted. No further work is required at this time.

SEPP 65 - Council has provided a detailed response outlining how the urban design work undertaken to date for the NBN site and the draft DCP guidelines align with the SEPP. While the SEPP is not specifically relevant to the PP itself, the Department supports Council's inclusion of this assessment as it details how the various elements which underpin the RL heights come together. This should assist with community consultation, should the PP be supported by the Gateway.

SEPP 71 - Council has included an assessment of the PP against the matters specified in clause 8 of the SEPP. It considers the PP to be consistent with the SEPP. Although located within the coastal zone the topography of the site and surrounds ensures that the sensitive coastal area is not affected. In particular the proposed Height of buildings is considered

compatible with the context of the area. This position is supported.

SECTION 117 DIRECTIONS

The PP is considered consistent with the relevant s117 directions except the following which are either inconsistent or require further work before consistency could be determined.

4.1 Acid Sulfate Soils (ASS) - inconsistent because the PP would intensify the use of the land and an ASS study is not proposed (clause 6). The inconsistency with this direction is considered minor because the site is identified as containing class 5 soils and adequate provisions are included in the LEP to ensure that ASS would be fully considered as part of a future DA. The Secretary should agree that the inconsistency is of minor significance (subclause 8b).

4.2 Mine Subsidence and Unstable Land - the site is in the Newcastle Mines Subsidence District. Council needs to consult with the MSB (subclause 12a) before consistency could be determined.

4.4 Planning for Bushfire Protection - Council advises that the site is bushfire prone. As such, consultation with the RFS is required (subclause 4) before consistency could be determined.

5.10 Implementation of Regional Plans - Council has not included its assessment of the PP's consistency with the Hunter Regional Plan. The PP should be updated accordingly.

6.3 Site Specific Provisions - The proposal may be considered inconsistent because the PP would impose a development standard (RLs) to the NBN portion of the site that do not apply more broadly across the LGA, contrary to subclause 4c. Council has undertaken urban design analysis for various height and built form outcomes in order to demonstrate that more intense development (up to seven storeys) is appropriate.

In order to ensure that this built form outcome is achieved across a large site with varying topography, Council has proposed to use RLs rather than standard building heights because RLs would provide better built form certainty. This approach is supported and the Secretary should agree that the PP's inconsistency with the direction is of minor significance (clause 6).

Environmental social
economic impacts :

In addition to built form analysis, traffic and geotechnical studies have been undertaken. These studies demonstrate that the increased development resulting from this PP may be able to accommodated.

It is noted that the geotechnical report refers to a different development outcome (two six storey, one 12 storey development) and Council should make sure that the PP clearly states while the development outcome has changed, the findings remain current. This should avoid a potential source of confusion for the community.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	Mine Subsidence Board NSW Rural Fire Service		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons : **No changes to the proposal are required however the provision and funding of state infrastructure may become relevant to this plan if policy changes occur prior to it being finalised. State Infrastructure Contributions are currently under review.**

Documents

Document File Name	DocumentType Name	Is Public
Att B to planning proposal - Geotechnical Assessment.pdf	Study	No
Att C to planning proposal - Traffic Assessment.pdf	Study	No
Planning Proposal - Att A to Council report.pdf	Proposal	No
Newcastle City Council_30-11-2016_Request for Gateway Determination - Mosbri Crescent and Kitchener Parade The Hill_.pdf	Proposal Covering Letter	No
Draft DCP - Att B to Council report.pdf	Study	No
RE PP for Mosbri Crescent and Kitchener Parade (NBN site).txt	Study	No
Urban Design Consultative Group - Att C to Council report.pdf	Study	No
Attachement A to PP Urban Design Study.pdf	Study	Yes

Planning Team Recommendation

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

S.117 directions:

- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.2 Mine Subsidence and Unstable Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.3 Site Specific Provisions**

Additional Information : **This planning proposal should proceed subject to the following conditions:**

1. Prior to exhibition Council is to amend the planning proposal to refer to the Hunter Regional Plan 2036 and section 117 Direction 5.10 Implementation of Regional Plans and

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include Council's assessment of consistency with that direction.

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

- (a) the planning proposal must be made publicly available for a minimum of 28 days; and
- (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Environment 2016).

3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and must occur prior to exhibition;

- NSW Mine Subsidence Board (s117 direction 4.2)
- NSW Rural Fire Service (s117 direction 4.4)

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material. The public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

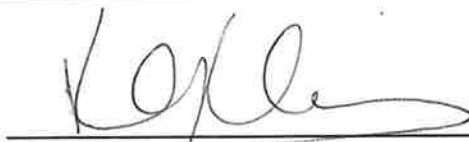
In the covering letter:

The Secretary should agree that the PP's inconsistency with s117 directions 4.1 Acid Sulfate Soils and 6.3 Site Specific Provisions is of minor significance.

Plan-making delegation should not be given.

Supporting Reasons : This Planning Proposal will enable the land to be redeveloped for residential uses, in line with the local strategic plan a and the Hunter Regional Plan.

Signature:



Printed Name:

K O'Flaherty

Date:

20-12-16