

Planning Services

Plan Finalisation Report

Local Government Area: Newcastle

File Number: IRF18/1192

1. NAME OF DRAFT LEP

Newcastle Local Environmental Plan 2012 (Amendment No. 28) (draft LEP).

2. SITE DESCRIPTION

The planning proposal applies to land at:

- Lots 10, 12 and 13 DP 216346 and Lot 1 204077 – 1-17 Mosbri Crescent; and
- Lot 8 DP 216346 and Lot 62 DP 522440 – 31, 37 and 41 Kitchener Parade, The Hill.

The site is the former Channel 9 NBN site off Mosbri Crescent and Kitchener Parade, The Hill. It is nestled in a topographical basin with high retaining walls to Arcadia Park to the east and Kitchener Parade to the north. The site is around a 10-minute walk to the Newcastle city centre.



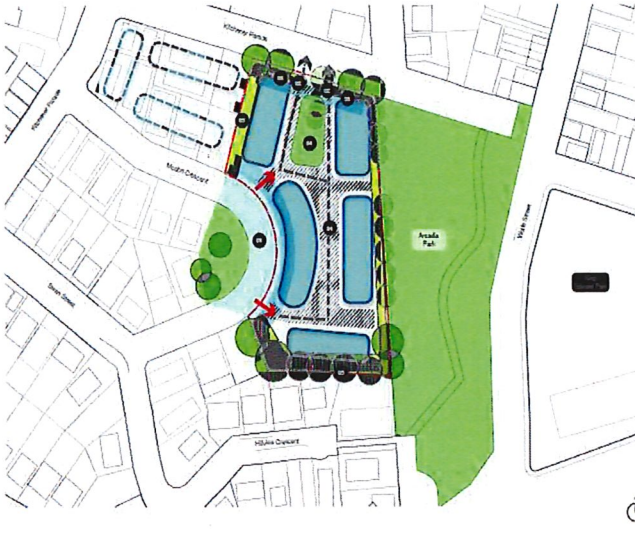
Figure 1: Site context.

3. PURPOSE OF PLAN

The draft LEP seeks to amend land controls to enable the redevelopment of a site for medium-density housing. The amendment will:

- rezone the subject land from R2 Low Density Residential to R3 Medium Density Residential; and

- The proposal is anticipated to generate up to 171 dwellings in five blocks as illustrated in Figures 2 and 3.



An aerial perspective rendering of the proposed development. The site is bounded by a road to the west and a green field to the east. The development includes several buildings: a large red L-shaped building on the left, a yellow rectangular building at the top, a red curved building in the center, and a yellow rectangular building at the bottom. There are parking lots, trees, and a curved road labeled 'Mudge Parkway' on the left. A north arrow is in the bottom right corner.

4. STATE ELECTORATE AND LOCAL MEMBER

The State Member has made representations to the Minister for Planning on behalf of a constituent, raising concerns with the proposal. The Minister's response is attached (**Attachment Ministerial**).

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

A Gateway determination alteration to extend the time frame for completion to 29 April 2018 was issued on 23 March 2018 (**Attachment D**).

6. PUBLIC CONSULTATION

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excessive height and scale, traffic and street parking. The submissions also queried why alternative options for development of the site were not considered. Council has assessed the issues raised and a summary of the submissions and Council's response is included at **Attachment G**. The adequacy of Council's response is considered in detail within the assessment section of this report below.

The Department received submissions outside of the exhibition period outlining concerns with the site and questioning the information provided by the applicant (**Attachment I**). The matters raised in these submissions reflect those previously considered by Council. The submissions also raised concerns with the proposal's consistency with Council's local planning strategy and the Hunter Regional Plan 2036. Consideration of these submissions is addressed in the assessment section of this report.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult the Rural Fire Service and Mine Subsidence Board (now Subsidence Advisory NSW) to address potential inconsistencies with section 9.1 Directions. No concerns with the planning proposal were raised. Subsidence Advisory NSW advised that it may impose conditions and engineering controls on any future development, as appropriate, given the presence and nature of underlying mine workings.

8. POST-EXHIBITION CHANGES

Minor changes to the planning proposal were made as a result of the feedback received during the exhibition period. Errors identified by submissions (for example, matters in **Attachment I** in relation to the road network and description of local infrastructure) have been addressed.

There have been no changes to the proposed planning controls post-exhibition.

9. ASSESSMENT

Potential built form and associated impacts

The most contentious issue has been built form and urban design, including building heights and the impacts on the surrounding neighbourhood and significant public views.

Community submissions have raised concerns with the impact of increased residential development on traffic and local infrastructure, such as schools.

The redevelopment of the site has been investigated over several years, including the preparation of an urban design study and consultation with Council's urban design consultative group (UDCG). Although the matter relates to a planning proposal and not a development application, Council considered relevant the framework of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development.

The UDCG is the designated design review panel under SEPP 65 and has considered the proposal and associated urban design study on two separate occasions (**Attachment J**). Specifically, the UDCG recommended a reduction in the height of buildings and FSR. The UDCG also provided guidance for future development of the site including building setback and the setback of upper stories, guidance regarding the design and legibility of public space in the area including public access through the site, landscaping requirements and recommendations regarding increased physical accessibility.

The planning controls in the final planning proposal reflect the recommendations of the UDCG and are supported by a draft development control plan that addresses the design aspects in more detail. The final urban design study supports a proposal for 171 dwellings (a reduction from the original 208 dwellings) and was a supporting document to the exhibited planning proposal.

Council's assessment has considered matters such as heritage, drainage, mine subsidence, bushfire, land contamination, traffic, pedestrian access and gradient, acid sulphate soils and urban vegetation. The site adjoins heritage items that have been considered by Council's heritage advisor, who confirmed that four-storey buildings were appropriate.

The design has used the bowl-like topography and depth of the site to enable visual impact to be managed. The building height controls vary across the site reflecting this topography, particularly a lower building height at the street frontage with taller buildings at the rear (**Attachment H**). The use of RL (reduced level) instead of above-ground-level building heights provides greater clarity regarding potential impacts and certainty for development outcomes. Council observes "the heights ... maintain a human scaled street edge and sit comfortably below ridgelines, thereby protecting views from public open space vantage points to the east (Obelisk lookout)".

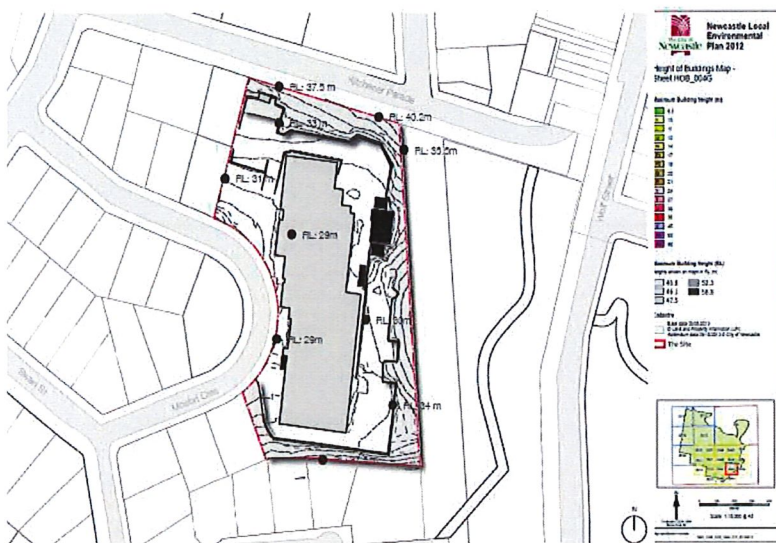


Figure 4: Bowl-like topography.



Figure 5: Proposed height controls (L = 11m, M = 12m).

The proposed building height and FSR have been extensively investigated and amended early in the preparation of the planning proposal to respond to the advice of the UDCG. Several of the issues raised respond to detailed design features of the proposed development, including its accessibility and access to public space. The proposed controls are considered appropriate for the site, and have been thoroughly assessed by Council's UDCG, and further detailed design considerations are relevant for future development assessment.

Consistency with the strategic planning framework (raised in submissions – **Attachment I**)

Newcastle's recently prepared local planning strategy (LPS), which is not an endorsed strategy, provides the local strategic planning context for the future of this area. The site was identified in the LPS to investigate zoning to medium-density housing. The draft LEP includes small areas of adjoining land.

The Mosbri Crescent site is around a 10-minute walk to the Newcastle city centre along Darby Street. Council considers that the site is consistent with the description of a substantial growth precinct as outlined in the LPS. The strategy also outlines directions for the "city's different residential zones":

"R3 Medium Density Residential – Meets the criteria of substantial growth under the Residential Growth Precincts, providing increased density (FSR and height) compared to R2 Low Density to support viability of centres and public transport. It is expected that there will be a change of character to a medium density environment."

The zone shall provide for flexible residential accommodation types to enable diversity and adaptable housing to be provided. Provides for limited services to support surrounding neighbourhood while respecting neighbourhood amenity”.

The strategy provides typical height and FSRs for development in the substantial growth precincts, being 10m in height and FSR of 0.9:1. It is considered that this site is not a typical site due to its bowl-like topography and elevations. A departure from the suggested height and FSR controls has been justified through the design review process.

The planning proposal is consistent with the Hunter Regional Plan 2036 and the Draft Greater Newcastle Metropolitan Plan. It will facilitate the development of a site in proximity to the Newcastle city centre with access to transport and services in a manner that respects the landscape attributes and responds to the character of the area.

The site is close to employment, urban and human services and existing infrastructure, and is consistent with direction 21 of the Hunter Regional Plan 2036 to create a more compact settlement.

The Draft Greater Newcastle Metropolitan Plan includes a key outcome relevant to this site, being *Outcome 3 – Deliver housing close to jobs and services*. While there are no specific actions under this outcome that apply to this site or general locality, the planning proposal is consistent with the intentions of the draft plan in delivering housing closer to jobs and at higher urban densities making best use of the available infrastructure.

Conclusion

The proposal is consistent with the vision, objectives and actions of the Hunter Regional Plan 2036, the Newcastle local planning strategy and the Draft Greater Newcastle Metropolitan Plan, which identifies this site for more intensive urban development to provide for a compact settlement close to jobs and services.

All Gateway determination conditions have been met.

The planning proposal provisions are considered to provide an appropriate balance of density and built form that makes the most of the site's attributes while managing the impacts on the nearby neighbourhood and surrounding areas.

10. MAPPING

The draft LEP includes amendments to the land use zone, height of buildings and FSR maps.

Minor technical matters have been addressed in the maps and they have been checked by the Department's ePlanning Team and were sent to Parliamentary Counsel on 6 March 2018.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (**Attachment E**). Council confirmed on 20 December 2017 that it was happy with the draft and that the plan should be made (**Attachment F**).

12. PARLIAMENTARY COUNSEL OPINION

On 22 December 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Minister's delegate determine to make the draft LEP because:

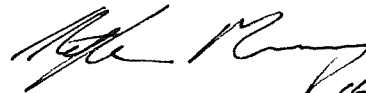
- the site is strategically located and suitable for medium-density housing;

- issues associated with building heights and impacts on the surrounding neighbourhood are considered to have been adequately addressed; and
- all Gateway determination conditions have been met.



11/4/2018

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