

60-80 Sandgate Road, Wallsend - Residential Rezoning

Proposal Title : **60-80 Sandgate Road, Wallsend - Residential Rezoning**

Proposal Summary : **Rezone part of 60-80 Sandgate Road, Wallsend from E2 Environmental Conservation zone and E3 Environmental Management to Zone R2 Low Density Residential in order to allow residential development of the site.**

PP Number : **PP_2013_NEWCA_004_00** Dop File No : **13/06902**

Proposal Details

Date Planning Proposal Received : **17-Apr-2013** LGA covered : **Newcastle**

Region : **Hunter** RPA : **Newcastle City Council**

State Electorate : **WALLSEND** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Sandgate Road**

Suburb : **Wallsend** City : Postcode : **2287**

Land Parcel : **Lot 2 DP 608814 and Lot 111 DP 541783**

DoP Planning Officer Contact Details

Contact Name : **Dylan Meade**

Contact Number : **0249042718**

Contact Email : **dylan.meade@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Johannes Honnef**

Contact Number : **0249742893**

Contact Email : **jhonef@ncc.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name : **N/A**

Regional / Sub Regional Strategy : **Lower Hunter Regional Strategy** Consistent with Strategy : **Yes**

60-80 Sandgate Road, Wallsend - Residential Rezoning

MDP Number :		Date of Release :	
Area of Release (Ha) :	10.00	Type of Release (eg Residential / Employment land) :	
No. of Lots :	1	No. of Dwellings (where relevant) :	46
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 : **The area subject to this planning proposal and currently zoned E3 is also subject to a proposed seniors housing development. The background of the seniors housing development is as follows:**

- On 16 November 2010 the DG issued a Site Compatibility Certificate (SCC) for seniors housing under State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004. The land was subject to Newcastle LEP 2003.
- On 13 March 2012 Council officers submitted a report to Council recommending approval of a proposed seniors development, however Council refused the Development Application (DA). It is understood that this refusal is the subject of an ongoing appeal in the Land and Environment Court.
- Due to imminent lapsing of the SCC (issued on 16/11/1010), a new SCC was issued by the DG on 12 November 2012. The land is now subject to Newcastle LEP 2012. This SCC is currently subject to a Land and Environment Court Hearing. Newcastle City Council have challenged the DG for issuing the SCC as it is claimed E3 Environmental Management zoned area is excluded from the SEPP, and as such the SCC is invalid. It is understood that the hearing has been deferred.

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives provided states that the intent of the proposal is to enable low density residential development on the subject site. The statement of objectives is supported.**

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

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

Comment : **The explanation of provisions explains that the planning proposal will be achieved by the**

following amendments to Newcastle LEP 2012 in relation to the subject land:

1. Amend the Zone Map from part E2 Environmental Conservation zone and part E3 Environmental Management zone to part R2 Low Density Residential zone, and maintain the current zoning of the residual land.
2. Amend the height of building map for part of the land to show a maximum building height of 8.5m.
3. Amend the Floor Space Ratio Map for part of the land to reflect a maximum floor space ratio of 0.6.
4. Amend the Minimum Lot Size Map to show a minimum lot size of 450m² over the subject land.

The explanation of objectives is supported.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones

4.1 Acid Sulfate Soils

* May need the Director General's agreement

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

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 55—Remediation of Land

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

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

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council proposes a exhibition period of 14 days as it considers the proposal to be of low impact. This is supported.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

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

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **June 2012**

Comments in relation to Principal LEP : **The Newcastle LEP 2012 was gazetted on 15 June 2012.**

Assessment Criteria

Need for planning proposal : **The planning proposal is required to enable development of the site for low density residential purposes. The subject site is not identified in any study or strategy, but is located approximately 1km from the Wallsend Town Centre and is considered an appropriate area for residential infill development.**

Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY

The planning proposal is consistent with the LHRS, particularly in regard to providing additional dwellings in existing urban areas.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

SEPP No 55 — Remediation of Land is applicable to the planning proposal as the site was previously filled with materials including slag from the former Pasmenco Smelter at Cockle Creek. Council advises it has considered a report addressing the requirements of SEPP 55 (prepared for a recent DA on the site), and is satisfied that the contamination identified on the site can be remediated to enable the intended uses of the proposed zoning. Council have provided a letter to the applicant from the NSW Environmental Protection Authority dated 14/2/2012 confirming the risks can be appropriately managed through the planning process and SEPP 55. The proposal is considered consistent with Clause 6 of the SEPP 55.

The proposal is considered consistent with all other SEPPs.

SECTION 117 DIRECTIONS

The following Section 117 Directions apply to the proposal:

***2.1 Environment Protection Zones**

The proposal is inconsistent with S.117 Direction 2.1 as it reduces the environmental protection standards that apply, by rezoning the land from E2 Environmental Conservation zone and E3 Environmental Management to R2 Low Density Residential. Council advises that the area to be rezoned to R2 was formally used for a metal recycling plant and has no known environmental significance. It is understood that the subject site was previously zoned 7c Environmental Investigation under the Newcastle LEP 2003. Due to no equivalent zone existing in the SI Template and uncertainty over contamination at the time, the site was rezoned to E3 under the Newcastle LEP 2012 to restrict development until a remediation plan was prepared.

The area to be rezoned to R2 is predominately zone E3 and affects a minor area (approximately 0.2 ha) of land zoned E2. Because the subject site adjoins land zoned E2, Council should undertake consultation with OEHL to determine impacts on the Environmental Zoned land, and with the Catchment Management Authority due to the close proximity of the site to the Shortland Wetlands. Whether or not the inconsistency with the Direction can be justified will be determined after consultation.

***4.1 Acid Sulfate Soils**

S.117 Direction 4.1 applies to the proposal as the land contains Class 3 Acid Sulfate Soils (ASS) as identified in Newcastle LEP 2012 ASS Maps. Council advises it has considered an acid sulfate soils study prepared for a recent DA and is satisfied of the appropriateness of the proposed intensification of land uses. The proposal is considered consistent with this Direction.

***4.3 Flood Prone Land**

The proposal is inconsistent with this direction as it rezones land within a flood planning area from Environmental Protection Zones to a Residential Zone. Council advises that it has considered a flood report prepared for a recent DA which considered impacts of the proposed development. It is proposed to fill flood affected areas of the site to a level above the flood planning area. Council advises this fill will have minimal impacts on local or regional flood behaviour. Consultation with OEHL regarding the proposal's inconsistency is required. Whether or not the inconsistency with the Direction can be justified will be determined after consultation.

***4.4 Planning for Bushfire Protection**

The site is mapped as bushfire prone land and as such Council must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made.

60-80 Sandgate Road, Wallsend - Residential Rezoning

Environmental social
economic impacts :

ENVIRONMENTAL

The area of the site proposed to be rezoned to residential was until recently used as metal recycling plant, and as such it is unlikely to have direct environmental impacts. The site however adjoins the environmentally sensitive land and is in close proximity to the Hexham Swamp Nature Reserve. Consultation with relevant agencies will assist in determining environmental impacts.

SOCIAL AND ECONOMIC

The rezoning of the land to residential will enable development of the site for housing which will have positive social and economic impacts.

Assessment Process

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

Timeframe to make LEP : **12 Month** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Hunter - Central Rivers Catchment Management Authority
Office of Environment and Heritage
NSW Rural Fire Service**

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

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

If no, provide reasons :

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

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
--------------------	-------------------	-----------

Planning Team Recommendation

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

S.117 directions: **2.1 Environment Protection Zones
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection**

60-80 Sandgate Road, Wallsend - Residential Rezoning

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

1. 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 is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 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 & Infrastructure 2013).**

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- **Office of Environment and Heritage**
- **NSW Rural Fire Service**
- **Hunter Central Rivers Catchment Management Authority**

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

3. Council is to consult with the Commissioner of the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.

4. Council is to consult with the Office of the Environment and Heritage regarding inconsistencies with S117 Directions 2.1 Environment Protection Zones and 4.3 Flood Prone Land.

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

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

It is also recommended that the Minister's delegate agree that the inconsistency with S117 Direction 4.1 Acid Sulfate Soils is of a minor significance.

Council has indicated that it does not want plan-making delegations for this proposal. However, given that the proposal is considered of minor impact there is no reason why Council should not be delegated plan-making functions.

Supporting Reasons : **The proposal is supported as it will provide additional housing in existing urban areas.**

Signature:



Printed Name:

KO'FLAHERTY Date: 10/5/13