

Newcastle Local Environmental Plan 2012 - Medium Density Rezoning at Wallsend

Proposal Title : **Newcastle Local Environmental Plan 2012 - Medium Density Rezoning at Wallsend**

Proposal Summary : **The Planning Proposal aims to rezone land from part R2 Low Density Residential zone and part IN2 Light Industry zone to R3 Medium Density Residential zone under the Newcastle Local Environmental Plan 2012.**

The land zoned IN2 Light Industry is currently used for industrial purposes and accessed through the residential streets, which are not designed to cater for heavy vehicle movements. Rezoning the land will remove the land use conflict between the industrial and residential land uses.

PP Number : **PP_2013_NEWCA_006_00** Dop File No : **13/06905**

Proposal Details

Date Proposal Lodged with DOP : **17-Apr-2013** Date Proposal Uploaded to Public Website : **10-May-2013**

Proposal Assessment

Is Public Hearing Required by PAC? **No**

Agencies Requested to Consult : **Hunter Water Corporation
NSW Rural Fire Service**

Gateway Determination

Decision Date : **13-May-2013** Gateway Determination : **Passed with Conditions**
Due Date of LEP : **20-Jun-2015**

Implementation

Implementation Start Date : **20-May-2013** Exhibition Duration : **29**

Agency consultation consistent with recommendation : **Yes**

If No, comment : **Consultation with agencies was required by Gateway with Hunter Water and NSW Rural Fire Services with regard to S117 Direction 4.4 Planning for Bushfire Protection.**

Hunter Water did not object to the proposal.

NSW RFS advised grassland to the north of the site is not identified as bushfire prone but management of this vegetation should be considered with respect to future development. This issue can be assessed through future development applications.

Agency Objections : **No**

If Yes, comment :

Documentation consistent
with Gateway :

Yes

If No, comment :

DOCUMENTATION CONSISTENT WITH GATEWAY.

The planning proposal seeks to rezone part of the land from Zone IN2 Light Industrial and R2 Low Density Residential to Zone R3 Medium Density Residential and E2 Environmental Conservation.

The Gateway did not state that part of the site was to be zoned E2 but the final amendment proposes to zone some of the site E2. This is to provide a buffer from flood impacts on the adjoining residential area.

The MLS was originally 450 square metres across the site and the proponent requested that the final proposal contain some areas 250 square metres MLS. The 250 square metres MLS is considered to be appropriate as it will provide housing diversity for the housing market and is within 400 metres from Wallsend town centre.

There is an area of building height increase over the land affected by flood. The additional height is proposed to accommodate basement car parking rather than land fill. The proposed height increase in this discrete area is from 10 to 14 metres.

The spatial distribution of MLS controls is consistent with the master plan for the site which was designed to respond to land use constraints such as; topography, flood, aspect and orientation. In addition, the Maximum Floor Space Ratio (FSR) is also proposed to be increased in this discrete location from 0.9:1 to 1.5:1 to allow for taller building in this location. It is considered that this development outcome is an appropriate response to the topography of the site.

Council has confirmed that these changes were made to the planning proposal prior to public exhibition.

These variations are such that the final planning proposal is inconsistent with the current Gateway Determination. As the changes to the proposal are supported and were exhibited, it is recommended the Gateway Determination be altered to reflect what is now proposed. The Gateway determination should be altered prior to the Minister's delegate deciding whether to make the plan.(see attached documents).

PUBLIC PARTICIPATION

The Planning Proposal was exhibited for a total of 28 days in accordance with the Gateway Determination from 17 November to 15 December 2014. Two submissions were received.

The issues raised in submissions were; parking, stormwater, land fill and its effect on surrounding flood levels and overshadowing and existing use rights.

Parking and stormwater can adequately be considered through Council's existing controls. The site is low lying but may be drained to the adjoining concrete drain known as Ironbark Creek.

The maximum proposed land fill is 1.5 metres above the existing the ground level. The land is required to be constructed so as not to exacerbate or increase flood impacts on adjoining properties post-development. Council states that construction of the proposed residential subdivision can occur without increase of flood impacts on surrounding properties.

An adjoining property owner operating as O'Neil's Tyres requested clarification regarding the continuation of business after the land is rezoned from IN2 to R3 and E2. A commercial use will not be permissible in the R3 and E2 zones under LEP 2012 however; an approved use on the site prior to the amendment may be able to demonstrate its continued use. It is considered a logical, strategic land use planning decision to zone the O'Neil's Tyres in line with the surrounding land.

S117 DIRECTIONS AND STATE POLICIES

The Planning Proposal is consistent with the Minister's S117 Directions and State policies.

SEPP 55 (Remediation of Land)

Analysis was required by the Gateway regarding SEPP 55. Investigations found that the site can be remediated to facilitate the development proposed.

4.4 Planning for Bushfire - the planning proposal is consistent with Direction 4.4.

PARLIAMENTARY COUNSEL OPINION

Legal drafting of the instrument was requested on 25 March 2015 and the PC Opinion was issued on 29 May 2015. There has been no change to the draft instrument since the PC Opinion was issued.

Council was formally consulted on the draft LEP pursuant to s59(1) of the EP&A Act on 25 May 2015. Council agreed with the instrument on 29 May 2015.

It is recommended that the Plan be made.

LEP Assessment

Date Received from RPA : **12-Mar-2015**

LEP Determination

DatePublishNotification

Date sent to Parliamentary Council to Draft LEP : **22-May-2015**

Determination Date :

Determination Decision :

Notification Date :