



Vincent Street
CESSNOCK 2325

13 May 2008

To All Councillors

You are hereby notified that the next Meeting of the Strategic & Community Services Committee will be held in the Council Chambers, on Wednesday, 21 May 2008, immediately following the conclusion of the Infrastructure & Services Committee Meeting, for the purpose of transacting the undermentioned business.

**B R MORTOMORE
GENERAL MANAGER**

AGENDA:

PAGE NO.

(1) APOLOGIES.

(2) CONFIRMATION OF MINUTES.

Minutes of the Strategic & Community Services Committee
Meeting held on 7 May 2008

(3) OFFICERS' REPORTS

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(4) QUESTIONS WITHOUT NOTICE.

OFFICER'S REPORTS

ACTING DIRECTOR STRATEGIC & COMMUNITY SERVICES REPORT NO. 38/2008

SUBJECT: REZONING OF LAND AT BELLBIRD - BELLBIRD HEIGHTS PRECINCT

Strategic Land Use Planner, Sarah McMillam, reports:-

PURPOSE

The purpose of this report is to advise Council of the considerations of the proposed rezoning by the Department of Planning (DoP) and of the outcomes of the Section 62 consultation, recommending that the draft Local Environmental Plan for the Bellbird Heights Precinct be placed on exhibition for public comment.

BACKGROUND

At its meeting held on 7 February 2007, Council resolved to prepare a draft Local Environmental Plan (the draft plan) to allow future urban development of the Bellbird Heights Precinct, as identified in the Lower Hunter Regional Strategy. Council also resolved to consult with the relevant State Government agencies and other interested parties and report back to Council prior to public exhibition of the draft plan.

Council advised the DoP on 22 February 2007 of its decision to prepare the draft Local Environmental Plan and to seek the support of the LEP Review Panel. The DoP advised Council on 14 March 2007 that the LEP Review Panel would consider the rezoning, prior to Council submitting the Comprehensive LEP for exhibition. The DoP also confirmed that there was no need for a Local Environmental Study to be prepared in respect to the draft LEP. However, as a new release area, 'adequate environmental assessment' was required, including 'mechanisms for provision and funding of infrastructure'.

This report advises Council of the considerations of the proposed rezoning by the DoP and of the outcomes of the Section 62 consultation, recommending that the draft Local Environmental Plan for the Bellbird Heights Precinct, be placed on exhibition for public comment.

PROPOSED REZONING

The Bellbird Heights Precinct represents a new release areas identified in the Lower Hunter Regional Strategy. The draft plan seeks to rezone the land from Rural 1(a) – Rural "A" Zone to R2 Low Density Residential and RU2 Rural Landscape.

The draft zone map is included in the enclosure documents and comprises the following:

R2 – Low Density Residential: This zone covers approximately 82.5 hectares of the site and will provide for dwelling houses and other appropriate uses within the residential zone.

RU2 – Rural Landscape: This zone covers approximately 38.8 hectares of the site. It provides for an east/west vegetation/wildlife corridor and covers an area of the site which was previously undermined and may be subject to mine subsidence.

DEPARTMENT OF PLANNING CONSIDERATION

The Bellbird Heights Precinct represents one of several rezoning proposals that the DoP has agreed to consider separately to the Comprehensive LEP. It is anticipated that this “batch” of rezonings will be exhibited together and included, where it is practical to do so, into the final draft Cessnock LEP 2008, prior to the gazettal of this document.

SECTION 62 CONSULTATIONS

1. Department of Environment and Climate Change (DECC)

Flora and Fauna

DECC advised that the Bellbird Heights Precinct is subject to a Memorandum of Understanding between the State Government and the landholder. The MOU sets out the Parties’ intentions with regards to implementing the Government’s Environmental Land Offsets Scheme. It is therefore considered that compensatory offsets for any potential impacts on flora and fauna for the Bellbird Heights Precinct have already been identified and further investigations for these issues is not required.

Aboriginal Heritage

DECC supports the Aboriginal Heritage Impact Assessment undertaken for the Bellbird Heights Precinct, however a number of General Terms of Approval were provided for inclusion in the conditions of consent at the Development Application stage.

2. Hunter – Central Rivers Catchment Management Authority (CMA)

The CMA maintains that it will object to any rezoning where native vegetation is to be cleared if evidence is not provided that demonstrates the “improve or maintain” principles being met.

Notwithstanding this, the site is the beneficiary of environmental offsets which have been negotiated between the land holder and the NSW State Government as detailed by an MOU between the Minister for the Environment, the Minister for Planning and Hardie Holdings P/L.

3. Department of Natural Resources (DNR) (now Department of Water and Energy)

DNR recognises the environmental offsets provided for by the landholder but supports further retention of remnant vegetation on the site. DNR recommends that the draft Master Plan contain an east/west vegetation/wildlife corridor of at least 60m width. The subject area is also affected by underground mining so the vegetation corridor will minimise the amount of rehabilitation necessary to allow residential development.

The proposed zoning plan reflects comments raised by DNR and the area subject to undermining will retain its rural zone – RU2 Rural Landscape and the existing vegetation on the site will be retained. This area has an average width of approximately 200m.

4. Hunter Water Corporation

HWC raises no objection to the proposal. The Corporation confirms however, that there is limited capacity in the existing water supply system and wastewater transportation and treatment to accommodate new development, and augmentation works to existing infrastructure and a new pump station will be required to cater for the additional loads. This is actively being pursued by the proponent as part of a water supply and wastewater strategy being undertaken to adjust programming and amplify the infrastructure accordingly and will be finalised prior to gazettal should Council be given authorisation to exhibit the draft Plan.

5. Department of Education and Training (DEd)

The Department has not responded to date.

6. Telstra

Telstra did not respond. However, Telstra has previously advised that for land release areas that are adjoining existing residential land where infrastructure is already in place, and the network can be extended if/when required under normal land development processes.

7. Roads and Traffic Authority (RTA)

The RTA does not object to the exhibition of the draft Plan, however has requested that a revised traffic study be prepared prior to gazettal. The proponent has prepared the revised traffic study and the RTA is currently reviewing this.

8. NSW Rural Fire Service (RFS)

The RFS advises that the provisions of Planning for Bushfire Protection Guidelines 2006 apply to any future development on the site. Any subsequent development on the land will be subject to assessment in accordance with Section 79BA of the Environmental Planning and Assessment Act, 1979 and the Rural Fires Act 1997.

9. Alinta Asset Management Pty Ltd (Gas)

Alinta advised that natural gas is available to the site and their policy is to extend gas mains to all developments where possible, depending on economic viability.

10. Energy Australia

Energy Australia has not responded to date. However, it is anticipated that the proponent, in consultation with Energy Australia, will augment existing infrastructure to service the development site.

11. Mine Subsidence Board (MSB)

The Mine Subsidence Board does not object to the proposed rezoning, however it offers a number of requirements for building prior to development of the site. Future development applications will need to be referred to the MSB for comment and recommendation.

12. Mindaribba Local Aboriginal Land Council (MLALC)

MLALC advises that it does not object to rezoning proposals that have evidence that they were consulted in the preparation of the Aboriginal Cultural Heritage assessment.

The AHIA contains evidence that MLALC were present at the time of the field surveys and support the recommendations of the report.

13. Department of Primary Industries (DPI) – Mineral Resources Section

The DPI advised there are no significant coal resources beneath the subject land due to past mining activity between 1917 and 1972. The DPI advises however that the subject site is covered by a current mining lease, which is an essential part of the mine's operations; the former open cut voids are being used for washery reject and the area is required by Austar for the economic operations of the mine. The proposed residential usage would be incompatible with the current usage of the site. The DPI therefore objects to the proposed rezoning as being potentially detrimental to the operations of the Austar mine.

In order to resolve this issue, a subdivision over the subject land was approved by Council in February 2008. This had the effect of modifying the boundaries of the subject lots. Lot 1 (97.32ha) will constitute the residential development (other than that area to remain RU2 due to mine subsidence), while Lot 2 (24.5ha) constitutes the mining lease, including easements for access and vegetated buffers to the proposed residential development. Lot 2 is within the area to be zoned RU2 Rural Landscape. Austar Coal Mine supports the subdivision and reduction in the area of the mining lease subject to several conditions being fulfilled.

The proponent has advised that Austar Coal Mine has recently submitted a new Mines Operations Plan to the DPI. The DPI has advised that they will reconsider their objection to the proposed development following a review of the new Mines Operations Plan. The outcomes of these negotiations will be reported back to Council before the draft Plan is ready for gazettal.

SECTION 117 DIRECTIONS

The s117 Directions in the EP&A Act provide guidance and direction that Councils must have regard to in the preparation on LEPs. Draft LEPs must be consistent with the Directions, or meet the requirements contained within them. Relevant section 117 Directions are detailed below:

1.2 Rural Zones: The Bellbird Heights Precinct is identified for future urban development in the Lower Hunter Regional Strategy and for this reason is considered to be consistent with this Direction.

1.3 Mining, Petroleum Production and Extractive Industries: Council has sought the advice of the Director-General of the DPI on the development potential or resources within the Investigation Area and issues likely to lead to land use conflict between the proposed residential development and the development of resources in accordance with the Direction.

The mineral resources section of the DPI objects to the proposed rezoning due to the potential impact that residential development may have on the operations of the Austar mine.

In February 2008 Council approved a subdivision over the subject land that will modify the boundaries of the subject lots. Proposed Lot 1 will be 97.32ha and will constitute the residential development (other than that area to remain RU2 due to mine subsidence), while Proposed Lot 2 will be 24.5ha and will constitute the mining lease, including easements for access and vegetated buffers to the proposed residential development. Proposed Lot 2 is within the area to be zoned RU2 Rural Landscape.

It should be noted that the proponent has advised that Austar Coal Mine has recently submitted a new Mines Operations Plan to the DPI. The DPI has advised that they will reconsider their objection to the proposed development following a review of the new Mines Operations Plan.

2.1 Environmental Protection Zones: The Bellbird Heights Precinct is identified for future urban development in the Lower Hunter Regional Strategy and for this reason is considered to be consistent with this Direction.

2.3 Heritage Conservation:

Aboriginal Heritage

An Aboriginal Heritage Impact Assessment undertaken on the site found a number of isolated finds, including stone tools and a flaked glass tool. The Assessment concludes however that due to the disturbed nature of the site, it is of relatively low scientific, archaeological or Aboriginal cultural significance. Notwithstanding, should any sites be impacted on by the proposal, the AHIA recommends that additional sub-surface testing be undertaken prior to development occurring, artefacts be salvaged and kept with the appropriate group, subject to relevant permit being obtained and Mindaribba Local Aboriginal Land Council and the Lower Hunter Wonnarua Council being informed prior to the commencement of any work within the study area.

European Heritage

A Heritage Impact Assessment was undertaken on the site to assess the impact of the proposal on the Bellbird Branch Line of the South Maitland Railway. The report makes a number of recommendations, including maintaining the existing 100m wide corridor from which development is precluded, erecting fencing camouflaged with native vegetation planting along the railway corridor and providing pedestrian access to the Bellbird cutting bridge with appropriate signage to provide information on the history of the Bellbird Branch Line. The report concludes that the proposal will not have a detrimental impact on the SMR subject to the above recommendations being implemented.

3.1 Residential Zones: This Direction provides that a draft LEP shall, in relation to land to which this Direction applies, contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), unless justified by a strategy which is approved by the Director-General of the DoP.

Hunter Water Corporation have advised that there is insufficient capacity in the existing water supply system to cater for the proposed development. However augmentation works will enable the site to be adequately serviced.

It is noted that the Bellbird Heights Precinct is identified in the LHRS for future urban development which is a strategy approved by the Director-General of the DoP and the proposal is considered to be consistent with this Direction.

3.4 Integrating Land Use and Transport: A traffic study was undertaken for the site. However, Council and the RTA have identified additional information required to be included in the traffic study, in particular a broader traffic study is required that takes into consideration the cumulative impacts of the rezoning and other proposed rezonings that will impact on Wollombi Road. Council will continue to facilitate discussions between the proponent and the RTA with regards to the appropriate traffic controls for the Precinct.

Notwithstanding, the site is identified in the LHRS for future urban development which is a strategy approved by the Director-General of the Department of Planning.

4.4 Planning for Bushfire Protection: This Direction requires consultation with the NSW Rural Fire Service if a draft LEP affects land mapped as bushfire prone land. The subject land is mapped as Bushfire Prone Land and a Bushfire Planning Assessment was prepared of the site. Comments received from the RFS during the section 62 consultation confirm that future development requires bushfire safety authorities to be issued by the RFS to enable the land to be developed. Detailed bushfire controls will need to be submitted and assessed at the development application stage to ensure compliance with Planning for Bushfire Protection Guidelines and Rural Fires Act.

5.1 Implementation of Regional Strategies: The draft Plan is consistent with the Lower Hunter Regional Strategy released by the Minister for Planning, being identified for future urban development.

6.1 Approval and Referral Requirements: The draft LEP is consistent with the provisions of the standard instrument and with this Direction.

6.3 Site Specific Provisions: The draft LEP is consistent with the provisions of the standard instrument and with this Direction.

EXHIBITION

Upon receiving Authorisation from the DoP, the draft Plan will be placed on public exhibition for a minimum of 28 days in accordance with Council's notification guidelines and will be available for viewing at the following locations:

- Council's Administration Building (Customer Service Section);
- Cessnock Public Library;
- Kurri Kurri Public Library;
- Council's website at www.cessnock.nsw.gov.au

At the end of the exhibition period, all submissions will be considered and any necessary amendments to the draft plan finalised.

CONCLUSION

It is recommended that Council resolve to seek Written Authorisation to Exercise Delegations from the DoP to allow exhibition of the draft Plan for comment from the public and relevant agencies pursuant to section 65 of the EP&A Act.

Submissions received during the exhibition period will be considered and the matter reported back to Council for consideration and determination of the final content of the draft Plan.

RECOMMENDATION that:-

1. Council write to the Director General, Department of Planning requesting that a Certificate be issued for exhibition of the Draft LEP applying to the Bellbird Heights Precinct;
2. The draft plan be placed on public exhibition for 28 days; and
3. Council consider a further report following exhibition of the draft Plan to determine the final content of the Plan.

To: **The General Manager**
Strategic & Community Services
Committee – 21 May 2008

S EADE
ACTING DIRECTOR STRATEGIC &
COMMUNITY SERVICES
12 May 2008

ACTING DIRECTOR STRATEGIC & COMMUNITY SERVICES
REPORT NO. 39/2008

**SUBJECT: REZONING OF LAND AT HEDDON GRETA - HEDDON GRETA
PRECINCT**

Senior Strategic Planner, Mr D Quigley, reports:-

PURPOSE

The purpose of this report is to advise Council of the considerations of the proposed rezoning by the Department of Planning (DoP) and of the outcomes of the Section 62 consultation, recommending that the draft Local Environmental Plan for the Heddon Greta Precinct, be placed on exhibition for public comment.

BACKGROUND

At its meeting of 30 November 2005, Council resolved to prepare a draft Local Environmental Plan to allow for future urban development at Heddon Greta. Council also resolved to consult with the relevant State Government agencies and other interested parties and report back to Council prior to public exhibition of the draft plan.

Council advised the DoP on 19 December 2005 of its decision to prepare the draft LEP and to seek the support of the LEP Review Panel. The DoP, in correspondence dated 30 March 2006, advised that this rezoning should be implemented through the principal LEP and confirmed 'adequate environmental assessment' would be required.

PROPOSED REZONING

The Heddon Greta Precinct comprised two (2) rezoning submissions incorporating the following:

- Submission (18/2005/11/1) proposes to rezone an area of privately owned Open Space 6(a) to Residential 2(a) to facilitate the subdivision of 13 residential lots; and
- Submission (18/2005/12/1) proposes to rezone Rural 1(a) land to facilitate a mix of different land uses, including provision for 135 residential allotments, five (5) large lot residential, an environmental conservation area and open space area for active and passive recreation opportunities.

It should be noted that the original proposal comprised some 190 residential allotments, which has been reduced to retain significant on site vegetation.

The rezoning submissions are consistent with the City Wide Settlement Strategy (CWSS), which identifies the subject land as the WSFC 5 investigation area, incorporating a mixed residential density, rationalisation of open space and environmental features.

The draft zone map is included in the enclosure documents and comprises the following:

R2: Low Density Residential

This zone covers approximately 17.8 hectares of the site, being three (3) areas separated by the E2 Zone in the south-west and the RE1 Zone in the north-east. This residential zone is intended to provide predominantly for dwelling houses and other appropriate uses in the residential zone such as: child care centres; community facilities; neighbourhood shops; and places of public worship.

R5: Large Lot Residential

This zone covers approximately 2.4 hectares of land located between the E2 & RE1 Zones along the north-western boundary of the subject site. The land comprises five (5) lots which will have limited building areas due to environmental constraints.

RE1: Public Recreation

This zone covers approximately 4.5 hectares of the site, for active and passive open space activities, where sporting ovals will be established. This zone also provides for existing vegetation to be retained, particularly in riparian buffers. This recreation zone is intended to provide for recreation areas and facilities, while protecting land that has conservation value in areas so nominated by any future DCP applying to the area.

E2: Environmental Conservation

This zone covers approximately 5.1 hectares of the site, protecting the vulnerable native vegetation *eucalyptus parramattensis decadens*. This environmental zone is intended to conserve land containing flora / fauna that has high conservation value.

In addition to the zoning controls, it is proposed to prepare a detailed DCP which would form a Chapter of Cessnock DCP. The DCP controls would address issues such as:

- housing type, density and location
- consideration of on site constraints;
- landscape strategy;
- connection with adjoining land (including roads);
- water management provisions; and
- conservation management provisions.

DEPARTMENT OF PLANNING

The Heddon Greta Precinct represents one of several rezoning proposals that the DoP have agreed to consider separately to the Comprehensive LEP. It is anticipated that this “batch” of rezonings will be exhibited together and included, where it is practical to do so, into the final draft Cessnock LEP 2008, prior to the gazettal of this document.

SECTION 62 CONSULTATION

In January 2006 Council commenced Section 62 consultation pursuant to the Act, with thirteen (13) agencies contacted. The comments received are noted below, with appropriate comments provided.

NSW Rural Fire Service (RFS)

The RFS does not object to the proposal but notes that future residential and potential Special Fire Protection Purpose developments will be required to comply with Section 79BA of the EPA Act and Section 100B of the *Rural Fires Act 1997*.

The RFS also note that APZs are to be provided in accordance with Planning for Bushfire Protection Act 2001, with suitable mechanisms in place to ensure continual maintenance. Further, provision for water for fire fighting and construction requirements in addition to on site provisions will either have been or will be addressed at the appropriate stage of the development and accommodated and incorporated into a DCP for the site.

Department of Environment and Climate Change (DECC)

Concerns were raised with regard to the documentation provided and the potential loss of 30 hectares of the Kurri Sand Swamp Woodland Endangered Ecological Community, containing the vulnerable species *eucalyptus parramattensis decadens*.

Council, in consultation with the proponent and DECC have amended the proposal, reducing the residential area from 190 to 135 lots, in the process retaining the majority of the Kurri Sand Swamp Woodland EEC in situ. The proponent will still need to off-set the remainder of the area to be cleared, either via a 'deed of agreement' with DECC or via the 'bio-banking' scheme which will be introduced shortly.

DECC raises no objection to Council progressing the LEP subject to the final arrangements for offset provisions being resolved. The outcomes of these negotiations will be reported back to Council before the draft LEP is ready for gazettal.

Hunter-Central Rivers Catchment Management Authority (CMA)

The CMA maintains that it will object to any rezoning where native vegetation is to be cleared if evidence is not provided that demonstrates the "improve or maintain" principles being met.

Notwithstanding this, the CMA also states that proposals involving clearing of vegetation will be automatic "red lights" when they involve an EEC in "better than low condition". It also states that clearing of EECs (in better than low condition) cannot be offset.

With this in mind, negotiations with DECC on a suitable on site retention and offset package with a view that rezoning proposals such as Heddon Greta, which have been identified for future urban purposes in local and regional strategies, can still achieve an overall environmental outcome.

Given the above, it is considered that some vegetation could be removed subject to agreement being reached on a final offset package being negotiated. The outcomes of these negotiations will be reported back to Council before the draft LEP is ready for gazettal.

Department of Natural Resources (DNR)

The DNR does not object to the proposal, acknowledging the retention of the area surrounding a second order stream on the western portion of the site.

Mindaribba Local Aboriginal Land Council (MLALC)

No response was received from MLALC. However, DECC confirm that "*(t)he Aboriginal heritage assessment is considered satisfactory for a rezoning decision.*"

Hunter Water Corporation (HWC)

HWC raises no objection to the proposal, indicating sufficient capacity to service the additional demand from the Kurri/Cessnock Water Supply System. However, the Corporation confirms that there is limited capacity in the existing wastewater transportation. Upgrade works are scheduled for 2012/13 and new development will not be permitted to connect until these upgrade works are completed or alternative arrangements are made.

Roads & Traffic Authority (RTA)

The RTA does not object to exhibition of the draft LEP, but states that an objection will remain subject to an amended traffic and transport study being undertaken for the locality. It is anticipated that this issue will be resolved before the draft LEP is ready for gazettal.

South Maitland Railways (SMR)

The SMR does not object to the rezoning proposal but requests as owner of Lot 1, DP 937613, being the disused rail corridor (since August 1943) on the western boundary that be included in the proposal. The lot is approximately 20 m wide and 1.65 kms long.

Given the amended layout, including the proposed perimeter roads and E2 Zone, the proposal would gain little by including this allotment. Further, the proposal before Council does not need this allotment to proceed as any Asset Protection Zones will be located on individual allotments in accordance with *Planning for Bushfire Protection 2006*.

Energy Australia (EA)

No response received, though it should be noted that the established residential area to the south-east is adequately serviced with regard to electricity.

Telstra

No response received, though it should be noted that the established residential area to the south-east is adequately serviced.

Heritage Office (HO)

No response received, but it should be noted that the submitted Statement of Environmental Effects raised no issues with regard to European or aboriginal heritage.

Mine Subsidence Board (MSB)

The MSB recommended a 'no build zone' along an outcrop where the workings are shallow. The proponent has been in discussions with the MSB and the submitted Geotech Report notes three (3) 'no build zones'. These restrictions will be provided for in the Cessnock DCP.

SECTION 117 DIRECTIONS

The proposed rezoning has considered and meet all the requirements of the environmental planning instruments and directions under Section 117. The relevant Section 117 Directions are discussed below, with any inconsistency justified.

1.2 Rural Zones

The Heddon Greta precinct is identified for future urban development in both the draft City Wide Settlement Strategy (CWSS) 2007 and the Lower Hunter Regional Strategy (LHRS) and for this reason is considered to be consistent with this Direction.

2.1 Environmental Protection Zones

The proposal has been amended to protect and conserve the environmentally sensitive Kurri Sand Swamp Woodland Endangered Ecological Community, containing the vulnerable species *eucalyptus parramattensis decadens*, which has been agreed to in principle by DECC.

3.1 Residential Zones

The Heddon Greta Precinct is identified for future urban development in both the draft CWSS 2007 and the LHRS and for this reason is considered to be consistent with this Direction.

3.3 Home Occupations

The draft LEP provides for Home Occupation as 'permissible without consent' in the R2: Low Density Residential, in accordance with the Direction.

3.4 Integrating Land Use and Transport

The Precinct is in close proximity to Kurri Kurri (3.3 km) designated as a town in the LHRS and therefore deemed to be consistent with the Direction. Further, the Heddon Greta precinct is identified for future urban development in both the CWSS 2007 and the LHRS and for this reason is considered to be consistent with this Direction.

4.2 Mine Subsidence and Unstable Land

Correspondence from Mine Subsidence Board recommends a 'no build zone' in parts of the proposal, which has been generally addressed at this stage. Final detail will be incorporated in the Cessnock DCP.

4.3 Flood Prone Land

The designated watercourses through the proposal are flood affected, though these are proposed to be zoned RE1: Public Recreation and E2: Environmental Conservation. The restrictions / details of which can be provided in the DCP, but it would appear that all proposed residential allotments are above the RL10.0AHD level.

4.4 Planning for Bushfire Protection

The subject site is bushfire prone as are the surrounding lands to the north and west. The NSW Rural Fire Service advised that a number of criteria needed to be considered in the planning stages of the development.

5.1 Implementation of Regional Strategies

The draft LEP is consistent with a LHRS released October 2006 by the Minister for Planning, with the Heddon Greta Precinct being identified for future urban development.

6.1 Approval and Referral Requirements

The draft LEP is consistent with the provisions of CLEP 1989 and the draft Cessnock Comprehensive LEP 2008 in accordance with the Direction.

6.2 Reserving Land for Public Purposes

The draft LEP proposes to rezone the area as follows:

- R2: Low Density Residential zone;
- R5: Large Lot Residential;
- RE1: Public Recreation zone; and
- E2: Environmental Conservation.

The RE1: Public Recreation zoning is considered to be the most appropriate for the creeks, drainage lines and riparian areas that are to be dedicated to Council.

The E2: Environmental Conservation zoning is considered to be the most appropriate for the environmentally sensitive area known as the Kurri Sand Swamp Woodland Endangered Ecological Community, containing the vulnerable species *parramattensis decadens*. It is yet to be determined whether or not this land will be dedicated to Council.

As such, CLEP 1989 and the directions under Section 117 of *the Act* have been taken into consideration, with any inconsistency justified with appropriate reasons.

PROCESS TO BE FOLLOWED

Upon receiving Authorisation from the DoP, the draft LEP will be placed on public exhibition for 28 days. The exhibition material will be available for viewing at the following locations:

- Council's Administration Building (Customer Service Section);
- Cessnock Public Library;
- Kurri Kurri Public Library;
- Council's website at www.cessnock.nsw.gov.au

At the end of the exhibition period, all submissions will be considered and any necessary amendments to the draft plan finalised.

CONCLUSION

The Heddon Greta Precinct represents an addition to the land supply in Cessnock LGA and the Hunter Region, being identified in the LHRS. There are issues to be resolved through further consultation with agencies and the proponent during and subsequent to the exhibition period. This consultation may result in minor alterations to the development footprint and the location / spatial extent of the zones proposed.

However, the issues are not considered to be of such significance that they will prevent development of the precinct for urban and related purposes, providing in the order of 135 residential allotments.

It is therefore recommended that Council resolve to seek 'Written Authorisation to Exercise Delegations' from DoP to allow exhibition of the draft plan.

Submissions received will be taken into account and the matter reported back to Council for consideration and determination of the final content, in conjunction with the draft comprehensive Local Environmental Plan 2008.

Overall, it is considered that the rezoning submission has merit, being consistent with the established and proposed settlement patterns in the Heddon Greta area.

RECOMMENDATION that:-

1. Council write to the Director General, Department of Planning requesting that a Certificate be issued for exhibition of the draft LEP applying to the Heddon Greta Precinct;
2. The draft plan be placed on public exhibition for 28 days; and
3. Council consider a further report following exhibition of the draft Plan to determine the final content of the Plan.

To: **The General Manager**
Strategic & Community Services
Committee – 21 May 2008

S EADE
ACTING DIRECTOR STRATEGIC &
COMMUNITY SERVICES
12 May 2008

**ACTING DIRECTOR STRATEGIC & COMMUNITY SERVICES
REPORT NO. 40/2008**

SUBJECT: REZONING OF LAND AT GRETA- WYNDHAM STREET PRECINCT

Strategic Land Use Planner, Sarah McMillam, reports:-

PURPOSE

The purpose of this report is to advise Council of the considerations of the proposed rezoning by the Department of Planning (DoP) and of the outcomes of the Section 62 consultation, recommending that the draft Local Environmental Plan for the Wyndham Street Precinct be placed on exhibition for public comment.

BACKGROUND

At its meeting held on 7 February 2007, Council resolved to prepare a draft Local Environmental Plan (the draft plan) to allow future urban development of the Wyndham Street Precinct, as identified in the City Wide Settlement Strategy and the Lower Hunter Regional Strategy. Council also resolved to consult with the relevant State Government agencies and other interested parties and report back to Council prior to public exhibition of the draft plan.

Council advised the DoP on 22 February 2007 of its decision to prepare the draft Local Environmental Plan and to seek the support of the LEP Review Panel. The DoP advised Council on 14 March 2007 that the LEP Review Panel would consider the rezoning prior to Council submitting the Comprehensive LEP for exhibition. The DoP also confirmed that there was no need for a Local Environmental Study to be prepared in respect to the draft LEP, however, as a new release area, 'adequate environmental assessment' was required, including 'mechanisms for provision and funding of infrastructure'.

This report advises Council of the considerations of the proposed rezoning by the DoP and of the outcomes of the Section 62 consultation, recommending that the draft Local Environmental Plan for the Wyndham Street Precinct be placed on exhibition for public comment.

PROPOSED REZONING

The Wyndham Street Precinct represents one of the new release areas identified in the Lower Hunter Regional Strategy. The draft plan seeks to amend the Cessnock Local Environmental Plan by rezoning the land from Rural 1(a) – Rural "A" Zone to R2 Low Density Residential and RU2 Rural Landscape.

The draft zone map is included in the enclosure documents and comprises the following:

R2 – Low Density Residential: This zone covers approximately 39 hectares of the site and will provide for dwelling houses and other appropriate uses within the residential zone.

RU2 – Rural Landscape: This zone containing approximately 6.3 hectares of the site (an area of the site which is heavily constrained by vegetation and steep slope).

DEPARTMENT OF PLANNING CONSIDERATION

The Wyndham Street Precinct represents one of several rezoning proposals that the DoP have agreed to consider separately to the Comprehensive LEP. It is anticipated that this “batch” of rezonings will be exhibited together and included, where it is practical to do so, into the final draft Cessnock LEP 2008, prior to the gazettal of this document.

SECTION 62 CONSULTATION

In March 2007 Council commenced Section 62 consultation pursuant to the EP&A Act. Thirteen (13) agencies were consulted. Comments received are summarised below.

1. Department of Environment and Climate Change (DECC)

Flora and Fauna

DECC advised that the Wyndham Street Precinct is subject to a Memorandum of Understanding between the State Government and the landholder. The MOU sets out the Parties’ intentions with regards to implementing the NSW Government’s Environmental Land Offsets Scheme. It is therefore considered that compensatory offsets for any potential impacts on flora and fauna for the Wyndham Street Precinct have already been identified and further investigations for these issues is not required.

Aboriginal Heritage

DECC advised that the Aboriginal Heritage Impact Assessment undertaken on the Wyndham Street Precinct is supported, however a number of General Terms of Approval were provided for inclusion in the conditions of consent at the Development Application stage. DECC also advised that further clarification was required on the following matters:

- Survey transects should reflect the landforms present within the subject area and their likelihood to contain Aboriginal cultural heritage material. DECC notes that the survey effort did not necessarily focus on areas in which Aboriginal cultural values are likely to be found. Additional rationale to justify the survey effort and the transect locations is required.

Comment: the report divided the study area into landscape units based on landscape types. The report recognised that the site generally contains 3 landscape types; slope, ridge and gully. These landscape units were then dissected into more applicable survey units, according to the predicted archaeological potential, being Clump of trees, Drainage Gully, slopes, dam and crest. These six survey units were identified and examined, they were chosen in such a way as to maximise archaeological potential and survey efficiency.

- Confirmation that the 26 Artefacts located on the site are all registered on the Aboriginal Heritage Information Management System (AHIMS) and will be protected from impact by the proposal.

Comment: DECC have been notified of the artefacts and their locations. The objects will be protected by the National Parks and Wildlife Act, 1974 under which it is an offence to knowingly impact an object.

- Council should ensure that the people who wrote the report and completed the onsite assessment have relevant qualifications

Comment: The qualifications of the report writers have been reviewed and Council is satisfied that the report was prepared by suitably qualified persons. In addition, the fieldwork and formulation of the report was undertaken in conjunction with members from the Lower Hunter Wonnarua Council and Mindaribba Local Aboriginal Land Council.

2. Hunter – Central Rivers Catchment Management Authority (CMA)

The CMA maintains that it will object to any rezoning where native vegetation is to be cleared if evidence is not provided that demonstrates the “improve or maintain” principles being met.

Notwithstanding this, the site is the beneficiary of environmental offsets which have been negotiated between the land holder and the NSW State Government as detailed by an MOU between the Minister for the Environment, the Minister for Planning and Hardie Holdings P/L.

3. Department of Natural Resources (DNR)

DNR advise that a 10m vegetation buffer should be maintained, and/or established at either side of the minor streams that dissect the site. DNR have also advised that additional detail regarding the areas of the site that may be subject to flooding is required.

The Stormwater Management Plan prepared for the site identifies a number of options available for the treatment of water and drainage on the site. The Plan does not identify any areas of flood liable land. Further, the conceptual lot layout ensures that development is excluded from the waterways as these areas will be within drainage easements. The final arrangements for the treatment of waterways and drainage measures will be assessed at the development application stage.

4. Hunter Water Corporation

HWC raises no objection to the proposal. The Corporation confirms however, that there is limited capacity in the existing water supply system to cater for the proposed development. However proposed augmentation works planned for completion by 2008/09 will be able to service the proposed development. In addition, wastewater transportation and treatment systems have insufficient capacity to accommodate new development prior to regional upgrade works. These works are programmed for completion by 2010 - 2012. Notwithstanding this, the HWC advise that there is opportunity to fund expansion and execute a portion of these works prior to the Corporation's program. This is actively being pursued by the proponent as part of a water supply and wastewater strategy being undertaken to adjust programming and amplify the infrastructure accordingly and will be finalised prior to gazettal should Council be given authorisation to exhibit the draft Plan.

5. Department of Education and Training (DET)

The Department has not responded to date.

6. Telstra

Telstra did not respond. However, Telstra has previously advised that for land release areas that are adjoining existing residential land where infrastructure is already in place, the network can be extended if/when required under normal land development processes.

7. Roads and Traffic Authority (RTA)

The RTA does not object to the exhibition of the draft plan, but has requested that a revised traffic study that takes into account, for example, other potential developments identified in the Lower Hunter Regional Strategy located along the New England Highway be undertaken. Issues raised by the RTA will be finalised prior to gazettal of the draft Plan.

8. NSW Rural Fire Service (RFS)

The RFS advises that the provisions of Planning for Bushfire Protection Guidelines 2006 apply to any future development on the site. Any subsequent development on the land will be subject to assessment in accordance with Section 79BA of the Environmental Planning and Assessment Act, 1979 and the Rural Fires Act 1997.

9. Alinta Asset Management Pty Ltd (Gas)

Alinta advised that natural gas is available to the site and its policy is to extend gas mains to all developments where possible, depending on economic viability.

10. Energy Australia (EA)

Energy Australia has not responded to date. However, it is anticipated that the proponent, in consultation with Energy Australia, will augment existing infrastructure to service the development site.

11. Mindaribba Local Aboriginal Land Council (MLALC)

MLALC advises that it does not object to rezoning proposals which have evidence that they were consulted with in the preparation of the Aboriginal Cultural Heritage assessment.

The Aboriginal Heritage Impact Assessment undertaken for the site contains evidence that MLALC was present at the time of the field surveys and supports the recommendations of the reports.

SECTION 117 DIRECTIONS

The Section 117 Directions in the EP&A Act provide guidance and direction that Councils must have regard to in preparing LEPs. Draft LEPs must be consistent with the Directions, or meet the requirements contained within them. The draft Plan is considered to be consistent with the relevant S117 Directions, which include:

1.2 Rural Zones: The Wyndham Street Precinct is identified for future urban development in the Lower Hunter Regional Strategy and for this reason is considered to be consistent with this Direction.

2.1 Environmental Protection Zones: The Wyndham Street Precinct is identified for future urban development in the Lower Hunter Regional Strategy and for this reason is considered to be consistent with this Direction.

2.3 Heritage Conservation: The Aboriginal Heritage Impact Assessment (AHIA) found 26 Aboriginal artefacts on the site, including stone artefacts and one scarred tree. A number of the sites will not be disturbed as they are located within the area to be zoned RU2 Rural Landscape. The remaining sites will be located within a drainage reserve, as indicated on the conceptual subdivision layout. However, should any sites be impacted on by the residential development, the AHIA recommends that the objects should be salvaged and kept with the appropriate group, subject to permit being obtained.

Both DECC and the Mindaribba Local Aboriginal Land Council support this recommendation.

The site does not contain any items of European Heritage.

3.1 Residential Zones: This Direction provides that a draft LEP shall, in relation to land to which this Direction applies, contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), unless justified by a strategy which is approved by the Director-General of the DoP.

Hunter Water Corporation has advised that there is insufficient capacity in the existing water supply system to cater for the proposed development. However there is opportunity to fund expansion and execute a portion of these works prior to the Corporation's planned augmentation program.

It is noted that the Wyndham Street Precinct is identified for future urban development in the LHRS for future urban development which is a strategy approved by the Director-General of the DoP and the proposal is considered to be consistent with this Direction.

3.4 Integrating Land Use and Transport: A traffic study was undertaken for the site. However, Council and the RTA have identified additional information required to be included in the traffic study, in particularly a broader traffic study is required that takes into consideration the cumulative impacts of the rezoning and other proposed rezonings that will impact on the New England Highway. Council will continue to facilitate discussions between the proponent and the RTA with regards to the appropriate traffic controls for the Precinct.

Notwithstanding, the site is identified in the LHRS for future urban development which is a strategy approved by the Director-General of the DoP.

4.3 Flood Prone Land: The site is dissected by several intermittent waterways. However, these areas are not identified as flood liable lands. Suitable treatment of the waterways will be determined at the DA stage, when lot layout is finalised.

4.4 Planning for Bushfire Protection: This Direction requires consultation with the NSW Rural Fire Service if a draft LEP affects land mapped as bushfire prone land. The subject land is mapped as Bushfire Prone Land and a Bushfire Planning Assessment was prepared for the site. Comments received from the RFS during the section 62 consultation confirm that future development requires bushfire safety authorities to be issued by the RFS to enable the land to be developed. Detailed bushfire controls will need to be submitted and assessed at the development application stage to ensure compliance with Planning for Bushfire Protection Guidelines and Rural Fires Act.

5.1 Implementation of Regional Strategies: The draft Plan is consistent with the Lower Hunter Regional Strategy released by the Minister for Planning, being identified for future urban development.

6.1 Approval and Referral Requirements: The draft LEP is consistent with the provisions of the standard instrument and with this Direction.

6.3 Site Specific Provisions: The draft LEP is consistent with the provisions of the standard instrument and with this Direction.

EXHIBITION

Upon receiving Authorisation from the DoP, the draft LEP will be placed on public exhibition for a minimum of 28 days, in accordance with Council's notification guidelines. The exhibition material will be available for viewing at the following locations:

- Council's Administration Building (Customer Service Section);
- Cessnock Public Library;
- Kurri Kurri Public Library;
- Council's website at www.cessnock.nsw.gov.au

At the end of the exhibition period, all submissions will be considered and any necessary amendments to the draft plan finalised.

CONCLUSION

It is recommended that Council resolve to seek Written Authorisation to Exercise Delegations from the DoP to allow exhibition of the draft Plan for comment from the public and relevant agencies pursuant to section 65 of the EP&A Act.

Submissions received during the exhibition period will be considered and the matter reported back to Council for consideration and determination of the final content of the draft Plan.

RECOMMENDATION that:-

1. Council write to the Director General, Department of Planning requesting that a Certificate be issued for exhibition of the Draft LEP applying to the Wyndham Street Precinct;
2. The draft plan be placed on public exhibition for 28 days; and
3. Council consider a further report following exhibition of the draft Plan to determine the final content of the Plan.

To: **The General Manager**
Strategic & Community Services
Committee – 21 May 2008

S EADE
ACTING DIRECTOR STRATEGIC &
COMMUNITY SERVICES
12 May 2008

**ACTING DIRECTOR STRATEGIC & COMMUNITY SERVICES
REPORT NO. 41/2008**

SUBJECT: REZONING OF LAND AT NULKABA - VALLEY VIEW PLACE PRECINCT

Land Use Planner, Sarah McMillam, reports:-

PURPOSE

The purpose of this report is to advise Council of the considerations of the proposed rezoning by the Department of Planning (DoP) and the outcomes of the Section 62 consultation, recommending that the draft Local Environmental Plan for the Valley View Place Precinct, Nulkaba, be placed on exhibition for public comment.

BACKGROUND

A report was prepared for the Council meeting held on 21 June 2006, however it was withdrawn at the request of the proponent as the report recommended that Council resolve not to proceed with the rezoning for a number of reasons, including inconsistency with the City Wide Settlement Strategy (CWSS), the Lower Hunter Regional Strategy (LHRS), aircraft noise and encroachment on the Cessnock Aerodrome. The proponent requested that Council commission an independent review of the issues associated with aircraft noise and impact on the Cessnock Aerodrome.

Following additional investigations into the aircraft noise issues and the potential encroachment of development on the Cessnock Aerodrome, it was considered that future development of the site would not experience inappropriate levels of aircraft noise, or affect the operations of the Cessnock Aerodrome.

At its meeting held on 21 November 2007, Council resolved to include the site in the draft CWSS 2007 and prepare the draft Plan for the Valley View Place Precinct in Nulkaba.

Council subsequently undertook S62 consultations for the proposed rezoning in December 2007.

This report advises Council of the considerations of the proposed rezoning by the DoP and of the outcomes of the Section 62 consultation, recommending that the draft local environmental plan (the draft Plan) for the Valley View Place Precinct be placed on exhibition for public comment.

PROPOSED REZONING

The Draft Plan seeks to rezone the land from Rural 1(a) – Rural “A” Zone to R2 Low Density Residential and will provide for dwelling houses and other appropriate uses within the residential zone.

DEPARTMENT OF PLANNING CONSIDERATION

The Valley View Place Precinct represents one of several rezoning proposals that the DoP has agreed to consider separately to the Comprehensive LEP. It is anticipated that this “batch” of rezonings will be exhibited together and included, where it is practical to do so, into the final draft Cessnock LEP 2008, prior to the gazettal of this document.

SECTION 62 CONSULTATION

1. Department of Environment and Climate Change (DECC)

DECC advised that it has no concerns regarding the proposed development of the Valley View Place Precinct in Nulkaba.

2. Hunter – Central Rivers Catchment Management Authority (CMA)

The CMA maintains that it will object to any rezoning where native vegetation is to be cleared if evidence is not provided that demonstrates the “improve or maintain” principles being met.

Notwithstanding this, the CMA also states that proposals involving clearing of vegetation will be automatic “red lights” when they involve an EEC in “better than low condition”. It also states that clearing of EECs (in better than low condition) cannot be offset.

With this in mind, negotiations with DECC on a suitable on site retention and offset package with a view that rezoning proposals such as Nulkaba – Valley View Place, which have been identified for future urban purposes in local and regional strategies, can still achieve an overall environmental outcome.

Given the above, it is considered that some vegetation could be removed subject to agreement being reached on a final offset package being negotiated. The outcomes of these negotiations will be reported back to Council before the draft LEP is ready for gazettal.

3. Department of Water and Energy

The DWE is satisfied that the proposal adequately addresses all issues regarding surface and groundwater issues, including the identification and management of riparian corridors.

4. Hunter Water Corporation

HWC raises no objection to the proposal. The Corporation confirms however, that there is limited capacity in the existing water supply system in Cessnock to accommodate the new development prior to upgrade works. These works are programmed for completion by 2013/14. Further, there is limited capacity within the Nulkaba 1 Wastewater Pumping Station to cater for the proposal prior to upgrading works. Notwithstanding this, the HWC advises that there is opportunity to service the proposals which would need to be investigated in a water supply and wastewater strategy, undertaken in consultation with the Corporation. It is anticipated that the issues raised by HWC will not affect exhibition of the draft LEP but the issues will need to be finalised prior to gazettal of the draft Plan.

5. Department of Education and Training (DEd)

Did not respond to date.

6. Telstra

Telstra raises no objection to the proposal and advises that it will extend its network if/when required under normal land development processes.

7. Roads and Traffic Authority (RTA)

The RTA has not provided a formal response to date. However, the RTA has verbally advised that it does not object to the exhibition of the draft Plan and should additional information be required, this will need to be finalised prior to gazettal.

8. NSW Rural Fire Service (RFS)

The RFS has no objection to the rezoning. However it advises that the development should address the threat from grassland fires, including access and water and the incorporation of 1.8m high protective, non-combustible fencing, screened windows, asset protection zones and that a second access onto Wine Country Drive should be provided.

The development application will need to address the provisions of Planning for Bushfire Protection Guidelines 2006. A referral to the RFS will form part of the referral process of the development assessment. While a second access may be desirable, this is in conflict with traffic study prepared for the site and the RTA requirements.

10. Alinta Asset Management Pty Ltd (Gas)

Alinta have advised that it is its policy to extend gas to all development areas subject to economic viability.

11. Energy Australia

Energy Australia advised that there are no major constraints impacting on the ability to provide electricity to the subject land.

12. Mindaribba Local Aboriginal Land Council

MLALC has not responded to date. However, MLALC has advised on previous occasions that it does not object to rezoning proposals that have evidence that it was consulted with in the preparation of the Aboriginal Cultural Heritage assessment.

The AHIA contains evidence that MLALC were present at the time of the field surveys. A letter from MLALC advising that they agree with the recommendations of the report and do not object to the proposal has been provided to Council.

SECTION 117 DIRECTIONS

The Section 117 Directions in the EP&A Act provide guidance and direction that Councils must have regard to in preparing LEPs. Draft LEPs must be consistent with the Directions, or meet the requirements contained within them. The draft Plan is considered to be consistent with the relevant S117 Directions, which include:

1.2 Rural Zones: Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

2.1 Environmental Protection Zones: Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

In addition, the significant vegetation on the site will retain its rural zone – RU2 Rural Landscape.

2.3 Heritage Conservation: The Aboriginal Heritage Impact Assessment (AHIA) found no Aboriginal objects on the site and suggests that there is very little potential for archaeological evidence to be present in the subsurface soil. Nonetheless, should an object be found during construction, the NPWS and LALC must be informed.

The site does not contain any items of European Heritage.

3.1 Residential Zones: This Direction provides that a draft LEP shall, in relation to land to which this Direction applies, contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), unless justified by a strategy which is approved by the Director-General of the DoP.

Hunter Water Corporation has advised that there is insufficient capacity in the existing water supply system to cater for the proposed development. However there is opportunity to fund expansion and execute a portion of these works prior to the Corporation's planned augmentation program.

Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

3.4 Integrating Land Use and Transport: A traffic study was undertaken for the site and is currently being reviewed by the RTA. The traffic study concludes that even with the additional traffic generated by the proposal, the existing capacities of both Fletcher Street (the collector road) and Main Rd 220 will be within their peak loading limits.

Notwithstanding, Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the Comprehensive LEP.

4.4 Planning for Bushfire Protection: This Direction requires consultation with the NSW Rural Fire Service if a draft LEP affects land mapped as bushfire prone land. The subject land is mapped as Bushfire Prone Land and a Bushfire Planning Assessment was prepared for the site. Comments received from the RFS during the Section 62 consultation confirm that future development requires bushfire safety authorities to be issued by the RFS to enable the land to be developed. Detailed bushfire controls will need to be submitted and assessed at the development application stage to ensure compliance with Planning for Bushfire Protection Guidelines 2006 and Rural Fires Act 1997.

5.1 Implementation of Regional Strategies: Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

6.1 Approval and Referral Requirements: Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

6.3 Site Specific Provisions: The draft LEP is consistent with the provisions of the standard instrument and with this Direction.

EXHIBITION

Upon receiving Authorisation from the Department of Planning, the draft Plan will be placed on public exhibition for 28 days. The exhibition material will be available for viewing at the following locations:

- Council's Administration Building (Customer Service Section);
- Cessnock Public Library;
- Kurri Kurri Public Library; and
- Council's website at www.cessnock.nsw.gov.au

At the end of the exhibition period, all submissions will be considered and any necessary amendments to the draft Plan finalised.

CONCLUSION

It is recommended that Council resolve to seek Written Authorisation to Exercise Delegations from the DoP to allow exhibition of the draft Plan for comment from the public and relevant agencies pursuant to Section 65 of the EP&A Act.

Submissions received during the exhibition period will be finalised and the matter reported back to Council for consideration and determination of the final content of the draft Plan.

RECOMMENDATION that:-

1. Council write to the Director General, Department of Planning requesting that a Certificate be issued for exhibition of the Draft LEP applying to the Valley View Place, Precinct at Nulkaba;
2. The draft Plan be placed on public exhibition 28 days; and
3. Council consider a further report following exhibition of the draft Plan to determine the final content of the Plan.

To: **The General Manager**
Strategic & Community Services
Committee – 21 May 2008

S EADE
ACTING DIRECTOR STRATEGIC &
COMMUNITY SERVICES
12 May 2008

ACTING DIRECTOR STRATEGIC & COMMUNITY SERVICES REPORT NO. 42/2008

SUBJECT: CESSNOCK HERITAGE STRATEGY 2008/09 – 2010/11

Planning Assistant, Ms Donna Lorriman, reports:-

PURPOSE

The purpose of this report is to update Council on the activities of the Heritage Advisor. It also provides a three year Heritage Strategy for the Cessnock LGA. This strategy outlines the heritage activities to be undertaken over 2008/09 to 2010/11.

BACKGROUND

Council currently employs a Heritage Advisor on a one day per month basis. This position is partly funded by the NSW Heritage Office to a maximum of \$7,000. The Heritage Office has approved funding for this position. However, to claim this funding, Council must, before 30 May 2008, submit to the Heritage Office an annual heritage report for 2007/08 and a financial statement of its expenditure for the 2007/08 financial year.

A three year Heritage Strategy for 2008/09 - 2010/11 has also been prepared with the assistance of Council's Heritage Advisor and is submitted for Council's endorsement. This will provide the guidance for heritage matters in the Cessnock LGA for the next three years. A copy of the Strategy is included in the enclosure documents.

REPORT

A requirement of the local government heritage advisor funding program is that Council prepares and implements a three year Heritage Strategy for 2008/09 to 2010/11. This Strategy must be based on the Heritage Office publication, *'Recommendations for local council heritage management'*. The following lists in order of priority the implementation of each proposed action in the Heritage Strategy:

Recommendation	Action	Priority
1	Establish a Heritage Committee	2008
2	Exhibit the draft LEP 2008 and DCP	2008
2,4,9	Revise the DCP and commission/write guidelines. Include heritage incentives in the DCP	2009-2010
2	Apply for a grant for the Aboriginal Study	2008
	Commission the Aboriginal Study	2009
3	Appoint a Heritage Advisor	-
3	Promote conservation projects on Council's web site	2009
5	Advertise Heritage Incentive Fund	2008-2009
6	Apply for funding for a Heritage Main Street Program	2009
	Implement a Main Street Program or Heritage Main Street Study	2010
7	Training for Council staff on the LEP and DCP	2008
7	Advertise Hunter Heritage Network meetings	2008
7	Heritage information on Council's website	2009
7	Advertise and promote heritage in the local media and <i>Council News</i>	2009
7	Place heritage plaques on council owned buildings	2010
7	Investigate options for regional tourism such as the Great North Road	2010
8	Ensure that heritage items are flagged in Council's asset schedule	2008

The recommendations contained within the Strategy provide a framework for proactive heritage management through community participation, heritage incentives and increased awareness of heritage in the local area.

RECOMMENDATION that Council:-

1. Note the information; and
2. Adopts the Heritage Strategy for Cessnock 2008/09 to 2010/11.

To: **The General Manager**
Strategic & Community Services
Committee – 21 May 2008

S EADE
ACTING DIRECTOR STRATEGIC &
COMMUNITY SERVICES
12 May 2008

**ACTING DIRECTOR STRATEGIC & COMMUNITY SERVICES
REPORT NO. 43/2008**

SUBJECT: REZONING OF LAND AT MILLFIELD - MOUNT VIEW ROAD PRECINCT

Land Use Planner, Sarah McMillam, reports:-

PURPOSE

The purpose of this report is to advise Council of the considerations of the proposed rezoning by the Department of Planning (DoP) and the outcomes of the Section 62 consultation, recommending that the draft Local Environmental Plan for the Mount View Road Precinct, Millfield, be placed on exhibition for public comment.

BACKGROUND

Council first considered the proposal at its meeting held on 3 May 2006. Council resolved to prepare a draft Local Environmental Plan (the draft Plan) for the Mount View Road Precinct in Millfield. The draft Plan was subsequently sent to the DoP pursuant to S54 of the EP&A Act on 11 August 2006 seeking Written Authorisation to prepare the draft Plan. On 17 November 2006 the DoP advised that the proposal was not supported because it is not consistent with the City Wide Settlement Strategy and the Ministers (then) intention to make a Section 117 Direction to apply to the Millfield/Paxton/Ellalong area that will provide that no further urban rezonings occur in the area other than as provided by the MOU with Hardie Holdings or the CWSS.

On 21 February 2007, Council resolved to investigate the suitability of including the Mount View Rd, Millfield precinct as an investigation area in the review of CWSS Stage 1.

At its meeting held on 21 November 2007, Council resolved to include the site in the CWSS 2007 and prepare a draft amendment to the Cessnock Local Environmental Plan 1989 (the LEP) for the Mount View Road Precinct in Millfield.

Council subsequently undertook S62 consultations for the proposed rezoning in December 2007.

This report advises Council of the considerations of the proposed rezoning by the DoP and of the outcomes of the Section 62 consultation, recommending that the draft local environmental plan (the draft Plan) for the Mount View Road Precinct be placed on exhibition for public comment.

PROPOSED REZONING

The Draft Plan seeks to rezone the land from Rural 1(a) – Rural “A” Zone to R2 Low Density Residential and RU2 Rural Landscape.

The proposed draft zone map is included in the enclosure documents. The zones proposed are as follows:

R2 – Low Density Residential: This zone covers approximately 44.5 hectares of the site and will provide for dwelling houses and other appropriate uses within the residential zone.

RU2 – Rural Landscape: This zone covers approximately 11.8 hectares of the site. This area is visually prominent, has steep slope and contains significant vegetation.

DEPARTMENT OF PLANNING CONSIDERATION

As Council is aware, all new rezoning proposals are considered in detail by the DoP LEP Review Panel. The Panel makes recommendations to the Director General as to whether the draft LEP should proceed to exhibition. A Written Authorisation to Exercise Delegations (WATED) is issued to Councils if the plan is to proceed.

On 11 August 2006, Council referred the draft Plan to the DoP, seeking WATED to proceed with the proposal. On 17 November 2006, the Department advised Council that the proposed draft amendment is not supported as it is not consistent with the City Wide Settlement Strategy 2003. The Department further advised of the Minister's (then) intention to make a Section 117 Direction to apply to the Millfield/Paxton/Ellalong area that will provide that no further rezonings occur in this area other than as provided for in the MOU with Hardie Holdings or the CWSS. Council was not issued delegations at this time.

Following the site's inclusion in the draft CWSS 2007, it is considered that the proposal addresses the concerns raised by the Department.

SECTION 62 CONSULTATION

1. Department of Environment and Climate Change (DECC)

DECC advised that the Flora and Fauna assessment undertaken as part of the rezoning application does not follow the Threatened Biodiversity Survey and Assessment Guidelines for Developments and Activities Working Draft (2004). DECC recommends that comprehensive surveys, undertaken in accordance with the guidelines are carried out and a more suitable footprint for the development can be determined.

The Flora and Fauna surveys were undertaken in accordance with Council's Flora and Fauna Assessment Guidelines (DCP 2006).

DECC further advises that the northern area, although illegally cleared in 2004, has potential to be restored to its previous condition if grazing and slashing is stopped. This area should be placed in a conservation zone and development should be designed to avoid impacts on this habitat.

The area of the site containing the significant vegetation will not be rezoned as part of this proposal and will maintain its rural zone, RU2 Rural Landscape Zone, and will continue to be used for rural purposes.

2. Hunter – Central Rivers Catchment Management Authority (CMA)

The CMA maintains that it will object to any rezoning where native vegetation is to be cleared if evidence is not provided that demonstrates the "improve or maintain" principles being met.

Notwithstanding this, the CMA also states that proposals involving clearing of vegetation will be automatic "red lights" when they involve an EEC in "better than low condition". It also states that clearing of EECs (in better than low condition) cannot be offset.

With this in mind, negotiations with DECC on a suitable on site retention and offset package with a view that rezoning proposals such as Millfield, which have been identified for future urban purposes in local strategy, can still achieve an overall environmental outcome.

Given the above, it is considered that some vegetation could be removed subject to agreement being reached on a final offset package being negotiated. The outcomes of these negotiations will be reported back to Council before the draft LEP is ready for gazettal.

3. Department of Water and Energy

The DWE is satisfied that the proposal adequately addresses the issues relating to surface and groundwater issues. However, DWE encourages Council to ensure that development is excluded from the riparian areas via appropriate zoning.

The draft concept plan excludes development from the riparian areas as these will be dedicated drainage reserves.

4. Hunter Water Corporation

HWC raises no objection to the proposal. The Corporation confirms however, that there is limited capacity in the existing water supply system in Millfield to accommodate the new development prior to upgrade works. These works are programmed for completion by 2013/14. Further, there is limited capacity within the Millfield 2 Wastewater Pumping Station to cater for the proposal prior to upgrading works. Notwithstanding this, the HWC advises that there is opportunity to service the proposals which would need to be investigated in a water supply and wastewater strategy, undertaken in consultation with the Corporation. It is anticipated that the issues raised by HWC will not affect exhibition of the draft LEP but the issues will need to be finalised prior to gazettal of the draft Plan.

5. Department of Education and Training (DET)

The DET did not respond to date.

6. Telstra

Telstra raises no objection to the proposal and advises that it will extend its network if/when required under normal land development processes.

7. Roads and Traffic Authority (RTA)

The RTA has not provided a formal response to date. However, the RTA has verbally advised that it does not object to the exhibition of the draft Plan and, should additional information be required, this will need to be finalised prior to gazettal.

8. NSW Rural Fire Service (RFS)

The RFS has no objection to the rezoning. However, it notes that the Asset Protection Zones (APZs) recommended by the bushfire consultant will make some lots in the indicative lot layout unviable.

A constraints plan, showing the APZs, indicates that all lots can be developed to comply with bushfire requirements. Any subsequent development of the land will be subject to assessment in accordance with Section 79BA of the Environmental Planning and Assessment Act, 1979 and the Rural Fires Act, 1997.

10. Energy Australia

Energy Australia advised that there are no major constraints impacting the ability to provide electricity to the subject land.

11. Mindaribba Local Aboriginal Land Council

MLALC did not respond. However, MLALC has advised on previous occasions that it does not object to rezoning proposals that have evidence that it was consulted in the preparation of the Aboriginal Heritage Impact Assessment (AHIA).

The AHIA contains evidence that MLALC was present at the time of the field surveys. However, despite continued attempts by the project archaeologist to obtain a letter from MLALC, the attempts were unsuccessful. The attempts were documented and reported to DECC, who at the time advised that they were satisfied with the consultation process.

SECTION 117 DIRECTIONS

The Section 117 Directions in the EP&A Act provide guidance and direction that Councils must have regard to in preparing LEPs. Draft LEPs must be consistent with the Directions, or meet the requirements contained within them. The draft Plan is considered to be consistent with the relevant S117 Directions, which include:

1.2 Rural Zones: Council resolved to include the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

2.1 Environmental Protection Zones: Council resolved to include the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

In addition, the significant vegetation on the site will retain its rural zone – RU2 Rural Landscape.

2.3 Heritage Conservation: The Aboriginal Heritage Impact Assessment (AHIA) found one (1) Aboriginal artefact on the site, being a broken flake. This object has been assessed as being of low significance. Should this artefact be impacted on by the residential development, the AHIA recommends that the object should be salvaged and kept with the appropriate group, subject to the appropriate permit being obtained.

In addition, the Aboriginal groups have indicated that they would like to monitor the initial earthworks to identify any artefacts that may be uncovered and deemed culturally significant.

The site does not contain any items of European Heritage.

3.1 Residential Zones: This Direction provides that a draft LEP shall, in relation to land to which this Direction applies, contain a requirement that residential development is not permitted until land is adequately serviced (or arrangements satisfactory to the council, or other appropriate authority, have been made to service it), unless justified by a strategy which is approved by the Director-General of the DoP.

Hunter Water Corporation has advised that there is insufficient capacity in the existing water supply system to cater for the proposed development. However there is opportunity to fund expansion and execute a portion of these works prior to the Corporation's planned augmentation program.

Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the Comprehensive LEP.

3.5 Integrating Land Use and Transport: A traffic study was undertaken for the site and is currently being reviewed by the RTA. The traffic study concludes that traffic impacts will be minimal and well within intersection and road capacities due to the available capacity in the surrounding road system. The study identified that a 50km/h speed limit will need to be extended on Mount View Road, cycle/walk ways will need to be provided and that the construction of the road network and intersection controls are to meet Council's standard.

4.3 Flood Prone Land: The designated watercourses through the proposal are flood affected, however as indicated on the draft Structure Plan, the areas subject to flooding will be dedicated drainage reserves and development will be prohibited from these areas. The restrictions / details can be provided in the DCP, but all proposed residential allotments are above the 1 in 100 year flood level.

4.4 Planning for Bushfire Protection: This Direction requires consultation with the NSW Rural Fire Service if a draft LEP affects land mapped as bushfire prone land. The subject land is mapped as Bushfire Prone Land and a Bushfire Planning Assessment was prepared for the site. Comments received from the RFS during the Section 62 consultation confirm that future development requires bushfire safety authorities to be issued by the RFS to enable the land to be developed. Detailed bushfire controls will need to be submitted and assessed at the development application stage to ensure compliance with Planning for Bushfire Protection Guidelines 2006 and Rural Fires Act 1997.

5.1 Implementation of Regional Strategies: Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

6.1 Approval and Referral Requirements: Council resolved to identify the site for urban development in the draft CWSS 2007. This Strategy will be exhibited concurrently with the draft Comprehensive LEP.

6.3 Site Specific Provisions: The draft LEP is consistent with the provisions of the standard instrument and with this Direction.

EXHIBITION

Upon receiving Authorisation from the DoP, the draft Plan will be placed on public exhibition for 28 days. The exhibition material will be available for viewing at the following locations:

- Council's Administration Building (Customer Service Section);
- Cessnock Public Library;
- Kurri Kurri Public Library; and
- Council's website at www.cessnock.nsw.gov.au

At the end of the exhibition period, all submissions will be considered and any necessary amendments to the draft Plan finalised.

CONCLUSION

It is recommended that Council resolve to seek Written Authorisation to Exercise Delegations from the DoP to allow exhibition of the draft Plan for comment from the public and relevant agencies pursuant to Section 65 of the EP&A Act.

Submissions received during the exhibition period will be finalised and the matter reported back to Council for consideration and determination of the final content of the draft Plan.

RECOMMENDATION that:-

1. Council write to the Director General, Department of Planning requesting that a Certificate be issued for exhibition of the Draft LEP applying to the Mount View Road, Precinct in Millfield;
2. The draft Plan be placed on public exhibition 28 days; and
3. Council consider a further report following exhibition of the draft Plan to determine the final content of the Plan.

To: **The General Manager**
Strategic & Community Services
Committee – 21 May 2008

S EADE
ACTING DIRECTOR STRATEGIC &
COMMUNITY SERVICES
12 May 2008

**ACTING DIRECTOR STRATEGIC & COMMUNITY SERVICES
REPORT NO. 44/2008**

SUBJECT: CESSNOCK YOUTH CENTRE AND OUTREACH SERVICE (CYCOS)

Social Planner, Ms N Drage, reports:-

BACKGROUND

This report has been prepared to provide Council with an update on the operations of the Cessnock Youth Centre and Outreach Service (CYCOS) and to advise that CYCOS has relocated to its new premises on 49 Aberdare Road, Aberdare.

CYCOS plays a substantial role in catering for the needs of young people aged 12 – 20 years across the LGA. The primary goal of the service is the personal and social development of the young people who attend. CYCOS provides programs and activities in an environment which values and supports individuals, fosters professional, caring and effective relationships with young people and promotes the positive image and value status of young people. The service is multi-faceted in that it operates as a drop-in area, provides outreach services and is also a support and referral service.

REPORT

On 8 May 2008, the CYCOS service began its operations at its new premises. The feedback from the staff of the service and the young people who have attended the centre to date has been positive. The centre offers greater space for indoor programs, has close links to open space and is located in a central area. CYCOS looks forward to continuing with the delivery of quality youth programs such as Life Skills and Beyond Blue from the new premises, in addition to the regular drop in service.

RECOMMENDATION that the report be noted.

To: **The General Manager**
Strategic & Community Services
Committee - 21 May 2008

S EADE
**ACTING DIRECTOR STRATEGIC &
COMMUNITY SERVICES**
12 May 2008