



## Gateway Determination

**Planning proposal (Department Ref: PP\_2016\_NEWCA\_007\_00):** *rezone the surplus portion of the rail corridor between Worth Place and Watt Street Newcastle, the Newcastle Train Station and certain adjacent land*

I, the Deputy Secretary Planning Services, at Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* that an amendment to the *Newcastle Local Environmental Plan (LEP) 2012* to rezone the surplus portion of the rail corridor between Worth Place and Watt Street Newcastle, the Newcastle Rail Station and certain adjacent land, should proceed subject to the following conditions:

1. Amend the planning proposal and draft maps prior to community consultation to:
  - a. remove Parcel 12, and remove the key site from Parcel 12 and Parcel 8;
  - b. clearly describe the proposed changes on individual parcels, including land outside of the corridor, for the purposes of community consultation;
  - c. clearly identify the additional land, outside of the rail corridor, that is subject to amendment including within the proposal's title, summary and justification.
  - d. address the consistency of the proposal with the Hunter Regional Plan 2036;
  - e. provide additional information regarding the strategic justification for decisions regarding the proposed pedestrian connection and Darby plaza concepts;
  - f. note changes to the level of retail, transport and social impact of the proposal (as otherwise stated in the studies submitted by the proponent) following the reduction in proposed B4 zone by Council and removal of Parcel 12; and
  - g. correction of minor anomaly related to Parcel 3 (Council report, Attachment E) and inclusion of an amendment to map labelling for Parcel 10 to identify the parcel as SP2 Infrastructure (Electricity Generating Works Facility).
2. Community consultation is required under section 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* as follows:
  - a. the Planning Proposal be made publicly available for 28 days; and
  - b. the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 4.5 of *A guide to preparing Local Environmental Plans*, Department of Planning and Environment 2016.

3. Consultation is not required with any public authorities under section 56(2)(d) of the *Environmental Planning and Assessment Act 1979*. Previous consultation with the Mine Subsidence Board for the purposes of s117 direction 4.2 is considered adequate.
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the *Environmental Planning and Assessment Act 1979*. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.
5. The timeframe for completing the LEP is 12 months from the date of the Gateway Determination.

Dated 13<sup>th</sup> day of December 2016.



**Marcus Ray**  
**Deputy Secretary**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Minister for Planning**

Mr Peter Chrystal  
Interim Chief Executive Officer  
Newcastle City Council  
PO Box 489  
Newcastle NSW 2300

Our ref: PP\_2016\_NEWCA\_007\_00 (16/13966-1)

Dear Mr Chrystal

**Planning proposal to amend Newcastle Local Environmental Plan 2012 – Rail Corridor and Adjacent Lands**

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in respect of the planning proposal for the now surplus portion of the rail corridor, Newcastle Rail Station and certain adjacent land.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

In making this determination, I have carefully considered the proposed rezoning of Parcel 12. I understand the challenges that this site has posed for Council when determining planning controls, particularly considering the uncertainty regarding the longer term future of the adjacent land. As such I have determined not to support Parcel 12 proceeding as part of the broader planning proposal. I am of the opinion that Parcel 12 should proceed separately as a consolidated proposal for both the site and the adjacent council owned land.

I also have not supported the identification of Parcel 12 and Parcel 8 (and adjacent land) as key sites and therefore requiring an architectural design competition. I consider that the existing provisions, including the requirement to consider design excellence provide adequate support for quality design and that a mandatory architectural design competition for future development on these sites represents an unnecessary additional step.

As delegate of the Secretary, I have agreed that the planning proposal's inconsistencies with S117 Directions 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions. I have also agreed with the inconsistency with Direction 6.1 Approval and Referral Requirements and 6.3 Site Specific Provisions in relation to the identification of the Newcastle Railway Station as a key site.

Council will still need to obtain the agreement of the Secretary to comply with the requirements of S117 Direction 6.2 Reserving Land for Public Purposes. Council should ensure this occurs prior to the plan being made.

The Department supports Council's approach to exhibit the planning proposal with the draft development control guidelines and planning agreement to inform the community about the detail of what is proposed. However if the legal drafting for the planning agreement delays the exhibition, it is considered appropriate that an updated letter of offer is adequate for the purposes of public exhibition of the planning proposal so as not to unreasonably delay exhibition of the planning proposal.

The Department is currently consulting on an improved policy framework for voluntary planning agreements. Council is encouraged to consider the draft material in respect to their negotiations with Urban Growth NSW.


I note that Council's resolution includes a number of matters relating to transport planning within the Newcastle City Centre that are beyond the scope of the LEP amendment process. These are matters for Council to progress with Transport for NSW and Urban Growth NSW directly.

Consistent with Council's proposal, the amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Ms Katrine O'Flaherty from the Hunter office to assist you. Ms O'Flaherty can be contacted on (02) 4904 2710.

Yours sincerely



**Marcus Ray**  
**Deputy Secretary**  
**Planning Services**

13/12/2016