

SUBJECT: CCL 27/09/16 - REQUEST TO AMEND NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012 FOR RAIL CORRIDOR LAND BETWEEN WORTH PLACE AND WATT STREET IN THE NEWCASTLE CITY CENTRE

REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER STRATEGIC PLANNING

PURPOSE

This report seeks Council's endorsement of a Planning Proposal to commence the statutory process to prepare an amendment to Newcastle Local Environmental Plan (LEP) 2012 to amend zoning, building height, floor space ratio and land acquisition maps for the rail corridor land between Worth Place and Watt Street, Newcastle.

RECOMMENDATION

1 Council resolves to:

- i) Endorse the attached Planning Proposal (**Attachment A**), prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, to amend Newcastle LEP 2012 to enable mixed use development, public recreation and tourist uses on surplus rail corridor land between Worth Place and Watt Street, Newcastle, including amendments on adjoining land listed in the following table:

Title	Address
Part Lot 22 DP1165985	430 Hunter Street, Newcastle
Part Lot 3 DP1111305	6 Workshop Way, Newcastle
Lot 100 DP809262	426 Hunter Street, Newcastle
Lot 31 DP534638	418 - 422 Hunter Street, Newcastle
Lot 1 DP18256	414 - 416 Hunter Street, Newcastle
Lot 1 DP1192409	1R Merewether Street, Newcastle
Lot 1001 DP1095836	280 Hunter Street, Newcastle
Lot 21 DP1009735	150 Scott Street, Newcastle
Lot 22 DP1009735	110 Scott Street, Newcastle
Lot 15 & 16, DP21503	484 - 486 Hunter Street, Newcastle
Lot 17 DP21503	488 Hunter Street, Newcastle

- ii) Forward the Planning Proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 56 of the *EP&A Act*.
- iii) Advise the Secretary of the Department of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act*.

- iv) Consult with the community and relevant government agencies as instructed by the gateway determination.
- v) Receive a report back on the Planning Proposal, including the draft planning agreement, following the public exhibition as per the requirements of Section 57 of the *EP&A Act*.

KEY ISSUES

Zoning

- 2 The land is currently zoned SP2 Infrastructure (Railway). The land use table for this zone only permits development for purposes shown on the land zoning map (ie. Railway) including any development that is ordinarily incidental or ancillary to development for that purpose. The current zoning therefore places significant constraints on the use of the land for any alternative purposes.
- 3 The objective of the Planning Proposal (**Attachment A**) is to enable the land to be used for mixed uses, (including commercial, retail and residential, including student accommodation), public recreation, and tourist uses. Educational establishments can also be accommodated under the proposed zone. The Planning Proposal details the amendment recommended to Newcastle LEP 2012 in order to achieve the intended outcomes. Furthermore, the Planning Proposal documents the issues considered in assessing the appropriateness of the proposed amendments.
- 4 The Planning Proposal (**Attachment A**) proposes the introduction of a new zone, SP3 Tourist zone, into the LEP. This new zone is proposed for the Newcastle Railway Station area. The new zone is aimed at ensuring a vibrant use for the Railway Station and the creation of an entertainment precinct.
- 5 The Planning Proposal also proposes to include the SP3 Tourist zone for the building area between Brown and Perkins Streets. This will ensure more compatible uses with the adjacent public open space. The land use table of the SP3 Tourist zone permits a range of uses that facilitate active and vibrant uses, but importantly does not permit residential accommodation.

Council Resolution

- 6 Council resolved on 26 July 2016 that the rail corridor retain its existing zoning until the NSW government developed a comprehensive public transport plan for the Lower Hunter that established the corridor land is not needed for transport purposes.
- 7 To assist the Council in making an informed decision on the proposed rezoning of the rail corridor, UrbanGrowth NSW have provided a letter (**Attachment B**) summarising the status and outcomes of various studies and management plans to confirm the corridor is not required for transport purposes. This is in addition to the amending legislation closing the rail corridor in 2015 and the Light Rail Determination Report released by Transport for NSW in August 2016.

City Centre Revitalisation

- 8 The LEP amendment request was supported by an economic assessment that identifies that redevelopment will contribute to the supply of additional floorspace for commercial, retail and residential purposes within the City Centre.
- 9 While this is beneficial to support employment and housing, the stronger justification for the planning proposal is based on the opportunities it creates for city centre revitalisation. In particular, the provision of additional public open space and improved north south connections to the waterfront, which are positive outcomes for the City.
- 10 UrbanGrowth NSW has provided a letter of offer (**Attachment C**) to enter into a Planning Agreement, in association with the requested rezoning, to facilitate delivery of the following aspects:-
 - i) Dedication of the land proposed to be zoned RE1 Public Open Space.
 - ii) Enhancement of public open space.
 - iii) Repurposing heritage buildings, particularly Newcastle Railway Station and Signal Box.
 - iv) Remediation works of open space.
 - v) Commitment to provision of affordable housing.
- 11 The scope of the offer is considered acceptable in-principle and should be utilised as the basis to continue negotiations with UrbanGrowth NSW, as per the recommendation of this report. The process of preparing the planning agreement will be carried out in accordance with Council's Planning Agreement Policy 2009.

Master Plan

- 12 The Planning Proposal has been informed by an Urban Design Analysis and Visual Impact Statement, prepared by consultants for the proponent (provided as attachments to the Planning Proposal, distributed under separate cover). The Urban Design Analysis developed a master plan for the subject land, which also included proposed heights and floor space ratio (FSR) controls. The proposed controls range from a height above ground of 30m to 14m and FSRs ranging from 4:1 to 2.5:1. The master plan has been reviewed by Council's Urban Design Consultative Group (UDCG) (**Attachment D**), and is supported in-principle with some minor modification. Further refinement may be required post Gateway as more detailed design work is undertaken when developing site specific DCP guidelines.
- 13 A detailed discussion of changes made to the proponent's LEP amendment request in preparing Council's Planning Proposal is included in **Attachment E**. The most significant change is in relation to parcels 12 and 14 at Scott Street

between Brown Street and Wolfe Street (adjacent to Council's car park and Harry's Café De Wheels). The LEP amendment request proposed these sites to be zoned B4 with height limits of 17m and 14m. This request was not supported by Council officers and it is proposed to rezone the western portion of Parcel 12 to SP3 Tourist zone with a 17m height limit and zone the remainder of Parcel 12 and all of Parcel 14 RE1 Public Recreation.

- 14 There is potential to amalgamate Parcel 12 with Council's car park which would allow a development to be oriented north-south rather than east-west on the part of the site adjoining the driveway and existing building to the west. This would allow a building to be erected that faces the public open space to the east and provides a 'book end' to this area of open space, which otherwise ends at the driveway to the adjacent site. While this potential to amalgamate Parcel 12 with Council's car park is supported in-principle it is proposed that this be the subject of a separate discussion and future planning proposal. It is not part of this Planning Proposal.
- 15 Refer to the master plan at **Attachment E** and zoning map within the Planning Proposal at **Attachment A**.

Development Control Plan

- 16 Detailed development control plan (DCP) guidelines will be prepared following receipt of a Gateway Determination. The DCP will generally be in accordance with draft DCP principles outlined in the LEP amendment request (distributed under separate cover as an attachment to the Planning Proposal in **Attachment A**). The DCP guidelines will provide further guidance on matters such as street wall heights and building setbacks to control building footprints along with guidance on vehicle access points. The DCP will also ensure future building footprints allow sufficient space between to allow for stormwater and other infrastructure.
- 17 It is intended to exhibit the draft DCP guidelines concurrently with the Planning Proposal. This will require a separate report and resolution of Council prior to exhibition of the Planning Proposal.

Heritage Assessment

- 18 The request to amend the Newcastle LEP was supported by a heritage assessment. The heritage assessment concludes:

"While the proposed rezoning will not physically impact on the heritage items, the works that follow the rezoning will. The construction of buildings to heights of 14m; 24m (Parcels 05 & 14); 20m (Parcel 12); and 30m (Parcels 01; 02; 03; 06; 07) will have a potential visual impact on the heritage value of the Newcastle City Centre Heritage Conservation Area. It is considered however that the impact will be, in most instances, positive with adaptive re-use of heritage items and in a number of instances improved view corridors."

- 19 The adaptive reuse of heritage items is supported as a positive initiative and the commitment to such is confirmed in the planning agreement offer (**Attachment C**).
- 20 Additional heritage assessment will occur at development application (DA) stage, however, it is important at this stage of preparing the basic development controls for the subject land via the Planning Proposal, that consideration is given to the general scale and massing of future development. Consistent with advice from Council's UDCG the maximum building height surrounding the Civic link have been reduced to more appropriately relate to the heritage listed Newcastle Museum.

Traffic and Parking

- 21 The submitted request to amend the LEP was supported by a Traffic Impact Assessment (TIA). The TIA concluded that additional traffic movements can be accommodated within the existing road network.
- 22 Future development will be subject to on-site parking requirements of the Newcastle DCP 2012.
- 23 The TIA found that the rezoning itself will not impact public off-street parking supply, however, the temporary car park off Wright Lane is likely to be amalgamated for redevelopment and some 190 spaces lost. The TIA found that in the context of overall supply of off-street parking in the City Centre, with the removal of these spaces, the peak utilisation would remain at less than 70%.
- 24 A strategic approach to parking within the Newcastle City Centre is required and is a wider issue then just relating to the rail corridor. UrbanGrowth NSW, in consultation with Council, is developing a car parking strategy for the City Centre.

Miscellaneous Amendments

- 25 When reviewing the LEP amendment request, it was identified that it was logical to expand the proposal to include certain adjoining land. Further consultation will be undertaken with these property owners during the exhibition. This land comprises:
 - i) 484 to 488 Hunter Street - proposed to be included on the land acquisition map to recognise the potential for a connection through to Hunter Street from Civic Lane at some time in the future.
 - ii) Further land to the rear of the Newcastle Museum (currently open space) and owned by Transport for NSW (RailCorp) and leased to Council, is proposed to be zoned RE1 Public Recreation to form a combined recreational zoning with adjoining land within the corridor to create the Civic Link from Hunter Street through to the Harbour.

- iii) 414 to 426 Hunter Street - the height limit is proposed to be decreased from 24m to 18m, which reflects the current building height and is consistent with adjoining corridor land.

FINANCIAL IMPACT

- 26 Work will be undertaken by Council's Strategic Planning staff within their current allocated work program and budget.
- 27 The Planning Proposal (**Attachment A**) includes an amendment to the land acquisition map to achieve a publicly accessible pedestrian link from Civic Lane to Hunter Street. This includes two properties located at 484 to 488 Hunter Street. This link corresponds with the proposed link under the master plan (**Attachment E**) which extends through to the harbour. Under the LEP, Council would be the acquiring authority for such land. The funding for acquiring this land will need to be negotiated under the Planning Agreement with UrbanGrowth NSW.

COMMUNITY STRATEGIC PLAN ALIGNMENT

Newcastle 2030 Community Strategic Plan

- 28 The Planning Proposal (**Attachment A**) is consistent with the strategic directions of the Newcastle 2030 Community Strategic Plan (CSP), including:
 - Vibrant and Activated Spaces
 - Caring and Inclusive Community
 - Liveable and Distinct Built Environment
 - Open and Collaborative Leadership
- 29 A detailed discussion of the Planning Proposal and its relationship with the CSP is provided in the Planning Proposal at **Attachment A**.

Local Planning Strategy (LPS)

- 30 The LPS is Council's comprehensive land use strategy to guide the future growth and development of Newcastle to 2030 and beyond. The LPS acknowledges the role of the Newcastle Urban Renewal Strategy (NURS) released by the NSW Department of Planning and Environment in 2012, and updated in 2014 and states:

"The LPS aims to complement this parallel strategy."

- 31 The Proposal is consistent with the visions and objectives of the LPS. A detailed discussion is provided in the Planning Proposal at **Attachment A**.

Newcastle Urban Renewal Strategy

- 32 The Newcastle Urban Renewal Strategy (NURS) is the principal land use strategy for the Newcastle City Centre. It includes nine guiding principles.

1. Opportunities to grow and expand
 2. Economic viability and competition
 3. Busy and vibrant city centre
 4. Integrity and viability
 5. Investment, employment and growth
 6. Transport, access and connectivity
 7. Housing mix and affordability
 8. Retail variety and choice
 9. Provide for future employment growth
- 33 A specific transport initiative of the NUS 2014 update was to connect the city with its waterfront. The provision of additional RE1 Public Recreation zoned land facilitates this connection.
- 34 The proposal is consistent with the principles of the NURS. A detailed discussion is provided in the Planning Proposal at **Attachment A**.

IMPLEMENTATION PLAN/IMPLICATIONS

- 35 The preparation of the attached planning proposals was undertaken in accordance with Council's Local Environmental Plan – Request for Amendment Policy (2012). This policy identifies Council's processes and responsibilities in applying the requirements of Part 3 of the *EP&A Act 1979* for amending an LEP.

RISK ASSESSMENT AND MITIGATION

- 36 The process of amending an LEP is prescribed by Part 3 of the *EP&A Act*. Adherence to the legislative framework reduces the risk by ensuring that a Planning Proposal is considered with regard to relevant strategic planning documents and is determined in an appropriate timeframe.
- 37 Justification has been provided for the formal LEP amendment request within the Planning Proposal at **Attachment A**.
- 38 Further consultation with stakeholders (including the broader community) will occur in accordance with the Minister's requirements following Gateway Determination. This will ensure all relevant parties are able to consider and comment on the draft Planning Proposal prior to it being reported back to Council for final adoption of the proposed amendment.

RELATED PREVIOUS DECISIONS

- 39 On 26 July 2016 the Council considered a Notice of Motion and resolved:
1. *Newcastle City Council determines to retain the current zoning of the Rail Corridor as Special Purpose 2 (SP2)*
 2. *Council convey to the State Government:*

- a. Its intention that such zoning remain until the NSW Government develops a comprehensive, evidence based plan for public transport and active transport in the Lower Hunter consistent with achieving Council's current transport targets, and such plans conclusively establish that the corridor land is not needed for transport purposes, and*
 - b. Its view that only a Council comprising elected representatives, elected by the citizens of Newcastle, should have the right to determine any rezoning of Newcastle's rail corridor land.*
 - 3. In the interim, Council consult with relevant State Government agencies to explore appropriate temporary uses of the corridor land.*
- 40 UrbanGrowth NSW has provided a letter (**Attachment B**) to confirm the corridor is no longer required for transport purposes.

CONSULTATION

- 41 Council's UDCG have been consulted during the preparation of the Planning Proposal. Their advice (**Attachment D**) has been incorporated into the development of the proposed LEP controls.
- 42 Consultation with stakeholders (including the community) will occur in accordance with the Minister's requirements following Gateway Determination.
- 43 The Planning Proposal outlines the level of statutory consultation required. This is in accordance with the Department of Planning's Guide to Preparing Local Environmental Plans. It is proposed that the Planning Proposal be publically exhibited for 28 days, unless otherwise advised by the Gateway Determination.
- 44 The Gateway Determination will confirm the consultation requirements, however, it is envisaged that this will include at a minimum public notice in the Newcastle Herald, publication on the Newcastle City Council web page and letters to adjoining and nearby properties owners. A consultation strategy is being prepared by Council's Communications and Engagement Unit, to determine the best method to consult the community, within the confines of the statutory exhibition process. A dedicated web page for the Planning Proposal is also being developed to help inform the community.
- 45 As Council is aware the Newcastle Urban Transformation and Transport Program (the Program) is proposing to undertake community consultation in late 2016, in collaboration with NCC subject to the current planning proposal proceeding to gateway. The engagement follows the successful 2015 Revitalising Newcastle community consultation and the commitment to re-engaging the community at a later date to discuss the future use and design of Newcastle Station and Civic Station precincts. The proposed engagement will seek to identify the strongest suggestions for the future use and design of Civic Station and Newcastle Station precincts. Engagement activities are likely to include: Community drop in sessions, school student excursions and activities, a series of workshops and a tourism round table.

OPTIONS

Option 1

46 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

47 Council resolves not to proceed with the Planning Proposal. This is not the recommended option.

BACKGROUND

48 The Newcastle heavy rail line was truncated by the NSW government in December 2014.

49 During 2015, UrbanGrowth NSW consulted with the community on potential future uses for the rail line.

50 In April 2016, the Review of Environmental Factors (REF) for the light rail proposal was placed on public exhibition by Transport NSW. In July 2016, a formal determination was made that the Newcastle light rail project proceed. Construction work is expected to commence in 2017.

51 Council received a request to amend Newcastle LEP 2012 in order enable the rail corridor land between Worth Place and Watt Street Newcastle to be redeveloped for mixed use, public open space and tourist uses. The submitted request indicates that the requested amendments to the LEP support the objectives of the NSW Government's Newcastle Urban Transformation and Transport Strategy (NUTTP).

52 Work has commenced on removing existing rail infrastructure.

ATTACHMENTS

Attachment A: Planning Proposal – Rail corridor land between Worth Place and Watt Street, Newcastle.

Attachment B: Letter from UrbanGrowth NSW demonstrating surplus nature of corridor.

Attachment C: Letter of offer from UrbanGrowth NSW to enter into a Planning Agreement.

Attachment D: Urban Design Consultative Group reports from 11 July 2016 and 17 August 2016.

Attachment E: Master Plan (UrbanGrowth NSW) and detailed parcel analysis.

All attachments are distributed under separate cover.