

[Agenda Report](#)

**ACTION ITEM**

Ordinary Council Meeting  
Tuesday, 25 August 2015

**SUBJECT: CCL 25/08/15 - 1 COWPER STREET WALLSEND - REMOVE LAND RESERVATION ACQUISITION STATUS - ENDORSEMENT OF PLANNING PROPOSAL TO AMEND NEWCASTLE LOCAL ENVIRONMENTAL PLAN 2012**

**RESOLVED:** (Councillors Tierney/Posniak)

Council resolves to:

- a) Endorse the attached Planning Proposal (**Attachment A**), pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, in order to remove the Land Reservation Acquisition over Lot 1, DP 1206104, 1 Cowper Street, Wallsend.
- b) Forward the Planning Proposal to the Minister for Planning and Environment for gateway determination pursuant to Section 56 of the *EP&A Act*.
- c) Advise the Director-General of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act*.
- d) Receive a report back on the Planning Proposal if a written objection is received during consultation with the community otherwise forward the Planning Proposal to the Secretary of the Department of Planning and Environment (DPE) requesting that the proposed amendments to Newcastle LEP 2012 be made.

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

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## **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 remove land at 1 Cowper Street, Wallsend from the land reservation acquisition map.

## **RECOMMENDATION**

- 1 Council resolves to:
  - a) Endorse the attached Planning Proposal (**Attachment A**), pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, in order to remove the Land Reservation Acquisition over Lot 1, DP 1206104, 1 Cowper Street, Wallsend.
  - b) Forward the Planning Proposal to the Minister for Planning and Environment for gateway determination pursuant to Section 56 of the *EP&A Act*.
  - c) Advise the Director-General of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act*.
  - d) Receive a report back on the Planning Proposal if a written objection is received during consultation with the community otherwise forward the Planning Proposal to the Secretary of the Department of Planning and Environment (DPE) requesting that the proposed amendments to Newcastle LEP 2012 be made.

## **KEY ISSUES**

- 2 The Planning Proposal (**Attachment A**) was prepared in accordance with DPE guidelines and Newcastle LEP 2012 - Request for Amendment Policy.
- 3 The objective of the Planning Proposal is to remove the Land Acquisition Reservation on 1 Cowper Street Wallsend (Lot 1, DP 1206104), which had been applied to the land for road widening.
- 4 Council has recently registered a road widening plan identifying the required road reserve for future road purposes. The current road widening plan no

longer affects 1 Cowper Street. As a result, the current Land Reservation Acquisition Map requires amendment to reflect Council's current requirements.

- 5 If endorsed by Council, the Planning Proposal will be forwarded to the Minister for Planning and Environment for gateway determination. Gateway determination will confirm initial State Government support for the Draft Planning Proposal, and identify what further technical studies and community consultation are required prior to the proposed amendments being determined.
- 6 Strategic Planning staff recommend that Council do not seek delegations under Section 59(1) of the *EP&A Act* given the added impost on Council resources without any additional influence on the outcomes. These delegations obligate Council to prepare the final reporting, drafting and mapping in order for the Minister of Planning and Environment to 'make' the proposed amendments to Newcastle LEP 2012. Where Council does not exercise these delegations, DPE undertakes these requirements.

#### **FINANCIAL IMPACT**

- 7 Work will be undertaken by Council's Strategic Planning Services staff within their current allocated work program and budget.

#### **COMMUNITY STRATEGIC PLAN ALIGNMENT**

- 8 The preparation and processing of the attached Draft Planning Proposal aligns to the strategic direction '*Open and Collaborative Leadership*' identified within the Newcastle 2030 Community Strategic Plan.
- 9 Compliance with the LEP amendment process, in particular, Section 57 of the *EP&A Act*, will assist in achieving the strategic objective; "*Consider decision-making based on collaborative, transparent and accountable leadership*" and the identified strategy 7.2b, which states: "*Provide opportunities for genuine and representative community engagement in local decision making*" as identified within the Newcastle 2030 Community Strategic Plan.

#### **IMPLEMENTATION PLAN/IMPLICATIONS**

- 10 The preparation of the attached Planning Proposal was undertaken in accordance with Newcastle's LEP 2012 – Request for Amendment Policy. This policy identifies Council's processes and responsibilities in applying the requirements of Part 3 of the *EP&A Act* for amending a Local Environment Plan (LEP).

#### **RISK ASSESSMENT AND MITIGATION**

- 11 The process of amending an LEP is prescribed by Part 3 of the *EP&A Act*. Adherence to the legislative framework reduces the risk to both applicant and Council by ensuring that a Planning Proposal is considered with regard to relevant strategic planning documents and is determined in an appropriate timeframe.

- 12 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.

#### **RELATED PREVIOUS DECISIONS**

- 13 Newcastle LEP 2012 was adopted by Council on 21 June 2011. Council resolved on 26 June 2012 to amend the land acquisition map on 1 Cowper Street and several properties in Longworth Avenue to reflect survey plans prepared at that time for road widening.

#### **CONSULTATION**

- 14 The Planning Proposal outlines the level of consultation required as per DPE NSW guidelines 'Preparing Local Environmental Plans'. The proposal is identified as a low impact proposal, meaning it is consistent with the pattern of surrounding land use zones and/or land uses; is consistent with the strategic planning framework; presents no issues with regard to infrastructure servicing; is not for a principal LEP, and does not reclassify public land. Hence, the Planning Proposal is proposed to be exhibited for 14 days, unless otherwise advised by the gateway determination.
- 15 The gateway determination will confirm which State agencies are to be consulted.

#### **OPTIONS**

##### **Option 1**

- 16 The recommendation as at Paragraph 1. This is the recommended option as the land is no longer required for road purposes.

##### **Option 2**

- 17 Council resolves not to proceed with the Planning Proposal. This is not the recommended option as it would not accurately reflect the future use of the land.

#### **BACKGROUND**

- 18 The Planning Proposal (**Attachment A**) provides the necessary justification to satisfy Council that the proposed amendment to Newcastle LEP 2012 can be endorsed and forwarded to DPE to seek gateway determination.
- 19 Cowper Street Wallsend (formerly the whole of the land in Lot 86 DP 1083318) was identified in Newcastle LEP 2012 as required (in part) for road widening purposes.
- 20 On 4 October 2013, Council acquired 1 Cowper Street Wallsend, following instigation of the process by the registered proprietor of the property.

- 21 Subsequent to the purchase, Council initiated the preparation and registration of a plan of subdivision to accurately reflect the part of 1 Cowper Street Wallsend required for road widening purposes.
- 22 The road widening plan was registered on 27 March 2015 and the residue of 1 Cowper Street Wallsend is now the whole of the land in Lot 1 DP 1206104.
- 23 No part of this newly created lot is required for road widening purposes and the LEP should be amended to reflect this. This will allow any Planning Certificate issued in relation to the property to disclose accurate information.

#### **ATTACHMENTS**

**Attachment A:** Planning Proposal - 1 Cowper Street, Wallsend - Land Reservation Acquisition Map

**Attachment A distributed under separate cover.**