



Contact: Susan Blake
Phone: (02) 4904 2700
Fax: (02) 4904 2701
Email: Susan.Blake@planning.nsw.gov.au
Postal: PO Box 1226, Newcastle NSW 2300

Our ref: PP_2013_NEWCA_011_00 (13/06907)

Mr Ken Goulthorp
General Manager
Newcastle City Council
PO Box 489
NEWCASTLE NSW 2300

Dear Mr Goulthorp,

Planning proposal to amend Newcastle Local Environmental Plan 2012

I am writing in response to your 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 to amend clause 4.1A 'Exceptions to minimum lot sizes for certain residential development' of Newcastle Local Environmental Plan (LEP) 2012 to facilitate retention of existing dwellings on lots below the minimum lot size, in some circumstances.

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

Council's intention to facilitate retention of existing dwellings on lots below the minimum lot size in some circumstances is supported. However, the proposed amendment to clause 4.1A, as drafted, does not provide enough flexibility to provide an alternative approach to achieve the intended outcome when drafting the LEP. There is also ambiguity regarding the suggested alternative to remove the minimum lot sizes for subdivision of multi-unit housing. Consequently, Council is to amend the planning proposal to remove the draft amendment to clause 4.1A and instead provide a plain English explanation of the intention of the proposal. Council's suggested alternative is to be removed from the planning proposal.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

The amending LEP is to be finalised within 9 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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

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, please contact Susan Blake of the regional office of the department on 02 4904 2700.

Yours sincerely,



3.6.13

Neil McGaffin
Executive Director
Rural and Regional Planning

Gateway Determination

Planning proposal (Department Ref: PP_2013_NEWCA_011_00): to facilitate retention of existing dwellings on lots below the minimum lot size, in some circumstances.

I, the Executive Director, Rural and Regional Planning at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to clause 4.1A 'Exceptions to minimum lot sizes for certain residential development' of Newcastle Local Environmental Plan (LEP) 2012 to facilitate retention of existing dwellings on lots below the minimum lot size, in some circumstances should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to amend the 'explanation of provisions' within the planning proposal to remove the draft amendment to clause 4.1A and instead provide a plain English explanation of the intention of the proposal. Council's proposed alternative, to remove the minimum lot size for subdivision of multi-unit housing, is to be removed from the planning proposal.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013) and must be made publicly available for a minimum of **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013).
3. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.
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 EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
5. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated

3rd

day of

June

2013.



Neil McGaffin
Executive Director
Rural and Regional Planning
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Newcastle City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_NEWCA_011_00	Planning proposal to amend clause 4.1A 'Exceptions to minimum lot sizes for certain residential development' of Newcastle Local Environmental Plan (LEP) 2012 to facilitate retention of existing dwellings on lots below the minimum lot size, in some circumstances.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "*A guideline for the preparation of local environmental plans*" and "*A guide to preparing planning proposals*".

Dated 3 June 2013


Neil McGaffin
Executive Director
Rural and Regional Planning
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_NEWCA_011_00
Date Sent to Department under s56	April 2013
Date considered at LEP Review Panel	16/05/2013
Gateway determination date	03/06/2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: