

Planning Services

Plan Finalisation Report

Local Government Area: Newcastle

File Number: EF18/291

1. NAME OF DRAFT LEP

Newcastle Local Environmental Plan 2012 Amendment No. 34 (draft LEP).

2. SITE DESCRIPTION

The planning proposal applies to land within the Newcastle local government area.

3. PURPOSE OF PLAN

The draft LEP seeks to omit tree removal from Schedule 3 Complying development, as these clauses have become obsolete due to new biodiversity legislation, including the SEPP (Vegetation in Non-Rural Areas) 2017.

There are no potential lots, dwellings or jobs to be created as a result of the proposal as this matter effects the functions of the approval process for tree removal only.

4. STATE ELECTORATE AND LOCAL MEMBER

The draft Plan applies to land within the Newcastle State Electorate. Tim Crakanthorp MP is the State Member for Newcastle.

The draft Plan applies to land within the Newcastle Federal Electorate. Sharon Claydon MP is the Federal Member for Newcastle.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.
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NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 12 March 2018 (**Attachment B**) determined that the proposal should proceed under section 3.22 (expedited amendments). The proposal was considered to be addressing matters that are of consequential, transitional, machinery or other minor nature per section 3.22(1)(b)).

The proposal is due for finalisation on 12 June 2018. However, as an amendment that has progressed under section 3.22, inconsistency with this requirement is a minor matter which should not preclude the making of the plan, if supported.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, public exhibited was not required.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was not required to consult with any public authority in accordance with the Gateway determination.

8. POST-EXHIBITION CHANGES

There have been no post-exhibition changes made to the draft Plan.

9. ASSESSMENT

The request to omit tree removal permissibility via Schedule 3 Complying development under Newcastle LEP 2012 is justified considering this mechanism of complying development has become obsolete due to recent legislative changes.

The SEPP (Vegetation in Non-Rural Areas) 2017 now regulates clearing that is not ancillary to development requiring consent, making the Schedule 3 provision redundant.

It is recommended that the draft LEP be made.

Section 9.1 Directions

There were no unresolved section 9.1 Directions, as specified in the Gateway determination or supporting cover letter.

State environmental planning policies

The draft LEP is consistent with relevant SEPPs or deemed SEPPs.

State, regional and district plans

The proposal is not inconsistent with the Hunter Regional Plan 2036 and the draft Greater Newcastle Metropolitan Plan 2036.

10. MAPPING

There are no LEP maps required as part of this amendment.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment C**). Council confirmed on 22 June 2018 that it was happy with the draft and that the plan should be made (**Attachment D**).

12. PARLIAMENTARY COUNSEL OPINION

On 19 June 2018 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

As delegate of the local plan-making authority:

1. note the section 3.22 request (**Attachment A**) and the Gateway determination (**Attachment B**);
2. note Parliamentary Counsel's Opinion that the draft LEP can legally be made and no changes have been made to the draft LEP since obtaining this Opinion (**Attachment PC**);
3. make the draft LEP under section 3.36 of *Environmental Planning and Assessment Act 1979* (the Act), by signing the instrument (**Attachment LEP**); and
4. sign the letter to Newcastle City Council (**Attachment Council**) advising of this decision.



23/7/2018
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24/7/2018
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Attachments

Attachment	Title
A	Section 3.22 EP&A submission
B	Gateway determination
C	Section 3.36(1) consultation with Council
D	Council's comments on draft LEP
PC	Parliamentary Counsel's Opinion
LEP	Draft LEP
Council	Letter to council advising of the decision