

## Planning Services

### Gateway Determination Report

<b>LGA</b>	Newcastle
<b>RPA</b>	Newcastle City Council
<b>NAME</b>	Proposed amendment to amend Schedule 3 Complying Development to omit tree removal as complying development.
<b>NUMBER</b>	PP_2018_NEWCA_001_00
<b>LEP TO BE AMENDED</b>	Newcastle LEP 2012
<b>ADDRESS</b>	Not applicable
<b>DESCRIPTION</b>	Section 3.22 amendment
<b>RECEIVED</b>	6/3/2018
<b>FILE NO.</b>	EF18/291
<b>POLITICAL DONATIONS</b>	There are no donations or gifts to disclose and a political donation disclosure is not required
<b>LOBBYIST CODE OF CONDUCT</b>	There have been no meetings or communications with registered lobbyists with respect to this proposal

#### INTRODUCTION

##### Description of Planning Proposal

The planning proposal seeks to amend Schedule 3 Complying Development to remove tree removal as complying development from the LEP. This responds to the land management and biodiversity conservation reforms where the Vegetation SEPP now regulates clearing that is not ancillary to development requiring consent.

##### Site Description

The complying development provisions apply to the whole local government area of Newcastle.

##### Summary of Recommendation

Proceed as per submitted. The proposal has been assessed against the criteria of s.3.22 (former s.73A) and is considered to meet the criteria of s.3.22(1)(b), being *'address matters in the principal instrument that are of consequential, transitional, machinery or other minor nature'*.

As the matter responds to both a consequential and transitional matter, it can proceed as an amendment under this provision.

## **PROPOSAL**

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### **Objectives or Intended Outcomes**

To align the wording in Schedule 3 of NLEP with the recent changes to the Vegetation SEPP that now regulates land clearing.

### **Explanation of Provisions**

Amendments proposed under the proposal, are clear and do not require community consultation or any agency referral.

### **Mapping**

No map change is involved.

## **NEED FOR THE PLANNING PROPOSAL**

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The planning proposal seeks to amend Schedule 3 Complying Development to remove tree removal as complying development from the LEP. This responds to the land management and biodiversity conservation reforms where the Vegetation SEPP now regulates clearing that is not ancillary to development requiring consent.

As a consequence of these changes, tree removal as complying development is now obsolete because clearing below the biodiversity offsets threshold only requires a permit issued by Council under the SEPP, and no longer requires development consent.

A complying development certificate is defined under the Environmental Planning and Assessment Act 1979 as a form of development consent.

The tree removal provisions in Schedule 3 Complying development only apply "to the removal of species or kinds of trees that are prescribed for the purpose of clause 5.9 by a development control plan made by the Council." As clause 5.9 has been repealed, and vegetation clearing is now regulated under the Vegetation SEPP there is no vegetation that can be removed under these complying development provisions.

## **STRATEGIC ASSESSMENT**

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### **State**

The proposal is not inconsistent with any State policy or with State Environmental Planning Policies or Ministerial Directions for local plan making.

The Exempt & Complying SEPP was amended on 25 August 2017 to remove the requirements relating to tree removal and tree clearing.

### **Regional / District**

The proposal is not inconsistent with the regional or endorsed district plans.

### **Local**

The proposal is not inconsistent with the local strategic planning framework.

## **SITE SPECIFIC ASSESSMENT**

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### **Social, Environmental and Economic Impacts**

Minimal.

### **Infrastructure**

There are no implications for infrastructure provision flowing from the proposal.

## **CONSULTATION**

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### **Community**

Consultation is not required for such a minor, consequential administrative amendment.

### **Agencies**

Referral is not required for such a minor, consequential administrative amendment.

## **TIMEFRAME**

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In view of the minor nature of the proposal, a three-month timeframe to finalisation is considered adequate.

## **DELEGATION**

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Delegation is retained within the Department as Council has not requested delegations and it is a minor matter.

## **CONCLUSION**

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The proposal is supported to proceed, as a minor consequential administrative update, under s.3.22 of the Act.

## **RECOMMENDATION**

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It is recommended that the delegate of the Minister for Planning determine that the planning proposal should proceed subject to the following conditions:

1. No community consultation is required under sections 3.34(2)(c) of the Act.
2. No public agency consultation is required under section 3.34(2)(d) of the Act.
3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).

4. The timeframe for completing the LEP is to be **3 months** following the date of the Gateway determination.

**Katrine O'Flaherty**  
**Team Leader**

A handwritten signature in black ink, appearing to read 'Monica Gibson', with a stylized, cursive script.

**12/3/2018**  
**Monica Gibson**  
**Director Regions, Hunter**  
**Planning Services**

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