

Amendment 24 Newcastle LEP 2012- Reclassification and rezoning of land at 162A Newcastle Road, Wallsend (Lot 110 DP 9755) (0 dwellings - formalises vehicular access only)

Proposal Title : **Amendment 24 Newcastle LEP 2012- Reclassification and rezoning of land at 162A Newcastle Road, Wallsend (Lot 110 DP 9755) (0 dwellings - formalises vehicular access only)**

Proposal Summary : **The amendment to Newcastle LEP 2012 seeks to:**
 - rezone 162A Newcastle Road, Wallsend (Lot 110 DP 9755) from RE1 Public Recreation to R3 Medium Density Residential;
 - amend the development standards on site by applying a 10m maximum building height, 0.9:1 maximum floor space ratio and 450sqm minimum lot size; and
 - reclassify the land from community to operational under the Local Government Act 1993.

This draft LEP will finalise the proposal as Amendment 24 to Newcastle LEP 2012.

BACKGROUND

The planning proposal originally related to two rezoning and reclassification proposals (4 Mayo St, Jesmond and 162A Newcastle Road, Wallsend). On 1 March 2016, the Department determined that two proposals should proceed as a combined proposal. However, 4 Mayo street, Jesmond no longer forms part of the draft LEP. Subsequent Alterations of Gateway separated the two proposals (Gateway Alteration 29 July 2016) and determined that 4 Mayo Street, Jesmond not proceed (Gateway Alteration 25 May 2017).

PP Number : **PP_2016_NEWCA_001_00** Dop File No : **15/18262 & 15/18261**

Proposal Details

Date Proposal Lodged with DOP : **28-Jan-2016** Date Proposal Uploaded to Public Website : **09-Feb-2016**

Proposal Assessment

Is Public Hearing Required by PAC? **No**

Agencies Requested to Consult : **Office of Environment and Heritage
Transport for NSW - Roads and
Maritime Services**

Gateway Determination

Decision Date : **01-Mar-2016** Gateway Determination : **Passed with Conditions**
 Due Date of LEP : **08-Jul-2017**

Implementation

Implementation Start Date : **08-Mar-2016** Exhibition Duration : **29**

Agency consultation consistent with recommendation : **Yes**

If No, comment : **The draft LEP for 162A Newcastle Road, Wallsend required consultation with:
- Roads and Maritime Services.**

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Agency Objections :

No

If Yes, comment :

ROADS AND MARITIME SERVICES

The proposal was referred to Roads and Maritime Services (RMS) for comment. RMS advised that the proposal will not have a significant impact on the classified road network and did not object given that:

- the section of the site that formed part of Newcastle Road would remain zoned as SP2 Infrastructure;
- the site was not intended for additional residential development; and
- no changes to access were proposed.

Documentation consistent with Gateway :

Yes

If No, comment :

COUNCIL'S REQUEST FOR DRAFTING

On 20 January 2017, Council forwarded the draft LEP to the Department for finalisation which seeks to rezone and reclassify part of 162A Newcastle Road, Wallsend (part of Lot 110 DP 9755) from community land to operational land.

The draft LEP will amend Newcastle LEP 2012 by:

- including the land in Schedule 4 'Classification and reclassification of public land' to reclassify the land from community land to operational land;
- partially rezoning the site from RE1 Public Recreation to R3 Medium Density Residential;
- introducing a maximum building height of 10m;
- introducing a maximum floor space ratio of 0.9:1; and
- introducing a minimum lot size of 450m².

Council has advised that the site is not used for community recreation and has been identified as surplus to the recreational needs of Council. Further, the site did not satisfy the desired standards of provision for both parkland and recreation facilities. The draft LEP will formalise the site's use as laneway access to residential properties on Dury Street and the Crescent, Wallsend.

COMMUNITY CONSULTATION

The planning proposal was exhibited for 28 days between 22 August 2016 and 19 September 2016. No submissions were received in relation to the draft LEP.

Public Hearing

A public hearing was held by an independent consultant on 11 October 2016 for the reclassification of the land in accordance with the Local Government Act 1993 (NSW). Council has provided a copy of the public hearing report. The report identifies that the public hearing was attended by 4 people, raising 3 issues relating to:

- Councils future motives for the site;
- reduced vehicular access to properties; and
- short term maintenance of the land.

Council provided a response to each of the issues advising that:

- The proposal aims to formalise the laneway through the rezoning and reclassification of the land;
- The RE1 zoning is not appropriate due to inconsistencies with the desired standards of provision in Council's Parkland and Recreation Strategy;
- There are no intentions to sell this land however the public land in question is no longer protected under the LG Act from potential future sale once it has been reclassified to operational;
- The proposal does not propose any change to the way the site is currently used; and
- The proposal does not propose any change to the way the site is currently

maintained.

It is considered that the issues raised in the public hearing report have been addressed by Council.

COMPLIANCE WITH THE GATEWAY DETERMINATION

On 1 March 2016, the Department determined that two planning proposals (4 Mayo St, Jesmond and 162A Newcastle Road, Wallsend) should proceed as a combined proposal (PP_2016_NEWCA_001_00). Council was not granted delegation to make the plan as the proposals sought to reclassify land.

Following Gateway determination, Council requested the Gateway be amended to allow the proposals to proceed separately for administrative reasons. A Gateway alteration was subsequently issued on 29 July 2016 to enable the two sites to proceed separately. On 14 March 2017, Council resolved not to proceed with the proposal to rezone land from RE1 Public Recreation to R2 Low Density Residential for 4 Mayo Street, Jesmond, over concerns about site contamination, community objection to the proposal and community concerns regarding privacy, overshadowing, flood risk, traffic, parking, and loss of recreation land in area.

On 25 May 2017, the Department issued a Gateway alteration to discontinue the proposal for 4 Mayo Street, Jesmond.

The draft LEP seeks to finalise the reclassification and rezoning of 162A Newcastle Road, Wallsend only. The conditions of the Gateway (as altered) have been satisfied.

CONSISTENCY WITH S117 DIRECTIONS

The proposal is consistent with all relevant s117 Directions excepted as discussed below.

3.2 Caravan Parks and Manufactured Home Estates

The draft LEP is not consistent with the direction as the proposal will rezone the site from RE1 Public Recreation (where Caravan parks are permissible) to R3 Medium Density Residential (where Caravan parks are not permissible). However, the inconsistency may be justified due to the size, location and shape of the site affecting the viability and suitability of the site and making it unlikely that it would be developed for that purpose.

The proposal's inconsistency with the direction was accepted as minor by the Secretary's Delegate at Gateway on 1 March 2016.

3.4 Integrating Landuse and Transport

The planning report supporting the Gateway states that consistency with this Direction was to be determined following exhibition of the proposal.

The proposal is consistent with the objectives of this Direction as the site is located in an existing accessible urban area and no additional dwellings are proposed. The proposal was referred to RMS which did not object to the proposal, for the reasons outlined in the 'agency consultation' section of this report.

4.1 Acid Sulfate Soils

The proposal's inconsistency with sub-clause (6) of the Direction may be considered of minor significance in accordance with the terms of the direction. This is justifiable as the subject site is mapped as containing Class 5 soils, being the least critical category, and the site is not earmarked for future development.

Instead, the draft LEP formalises the site's existing use as laneway access to residential properties on Dury Street and the Crescent, Wallsend.

6.2 Reserving Land for Public Purpose

The planning report supporting the Gateway states that consistency with this Direction was to be determined following exhibition of the proposal.

A planning proposal must not reduce or alter existing land zoned for public purpose without the approval of the relevant authority and the Secretary of the Department. The draft LEP alters and reduces land zoned for public purpose. The subject land is owned and managed by Council and Council has identified the land as surplus to the recreational needs of Council. Further, Council has identified that the land has not satisfied the desired standards of provision for both parkland and recreation facilities and the draft LEP will formalise the site's use as laneway access to existing properties. On 28 June 2017, the Governor's Approval was granted for the reclassification.

For the reasons listed above, the Department supports this change and it is recommended that the Secretary accept the change in accordance with sub-clause (4) and the terms of the direction.

CONSISTENCY WITH SEPPS

The planning proposal is consistent with all relevant State Environmental Planning Policies, except as described below.

SEPP 55 - Remediation of land

Council has advised that the subject site is not identified as being contaminated within Council's Contaminated Lands Database. Council has confirmed it is satisfied that:

- further investigation into contamination was deemed unnecessary;
- the subject site (162A Newcastle Road, Wallsend) is suitable for rezoning; and
- the proposal is consistent with the requirements of SEPP 55 Remediation of Land.

MAPS

The maps and map cover sheet have been checked by the Regional Office and the Department's GIS team. On 8 May 2017, Council certified that the maps are suitable for plan making.

LOBBYIST CODE OF CONDUCT

The Regional Team is unaware of any meetings with lobbyists.

EXCO - GOVERNOR'S APPROVAL FOR RECLASSIFICATION

The draft LEP will insert the land into Part 2 Schedule 4 of Newcastle Local Environmental Plan 2012. This will enable the reclassification of the subject land from community to operational. This will formalise the use of the land for rear lane access for adjoining properties with a zone compatible with the existing adjacent land uses.

Clause 5.2(5) of Newcastle Local Environmental Plan 2012 was made pursuant to section 30 of the Local Government Act 1993, which provides for the reclassification of community land as operational. Section 30(2) of the Local Government Act 1993 provides that a provision of a proposed LEP reclassifying community land as operational has effect only if the Governor approves it before the making of the LEP.

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On 28 June 2017, Governor's approval was granted for the reclassification, enabling the draft LEP to be considered by the Minister's Delegate for plan making.

FINAL PC OPINION

On 24 March 2017, Council accepted the terms of the draft LEP.

The PC Opinion was first issued on 7 March 2017. It has since been re-issued on 22 June 2017 (without alteration) to ensure currency of the Opinion for plan making.

No changes have been made to the instrument since the Opinion was issued.

RECOMMENDATION

It is recommended that the draft LEP proceed to plan making.

LEP Assessment

Date Received from RPA : **20-Jan-2017**

LEP Determination

DatePublishNotification

Date sent to Parliamentary Council to Draft LEP : **21-Jun-2017**

Date Matters sent for Other Referrals : **02-May-2017**

Determination Date :

Determination Decision :

Notification Date :