



**Office of the Director General**

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Our ref: PP\_2013\_NEWCA\_001\_00 (09/04973)  
Your ref: Future City.S Turkington/SCT

Dear Mr Pearce,

**Planning proposal to amend Newcastle Local Environmental Plan 2012**

I am writing in response to your Council's letter dated 20 December 2012 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to rezone land at 505 Minmi Road, Fletcher to R2 Low Density Residential and for environmental purposes and amend the maximum building height, floor space ratio and minimum lot size for land proposed to be zoned R2.

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.

It is noted a biodiversity conservation offset package has been negotiated and an agreement for the offset is to be signed by the Office of Environment and Heritage and other relevant parties. Council is encouraged to exhibit the signed offset package with the planning proposal. If this is not considered feasible, Council is to amend the planning proposal to include information about the offset package and advise of the expected timeframe for its completion.

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. Council should contact the relevant regional planning team of the department should it require assistance in relation to the exercise of its delegation.

Council is also reminded that it must not use its delegation where there is an unresolved agency objection to the draft Local Environmental Plan (LEP). In this instance, Council is to contact the regional office to seek assistance in resolving the matter so that the LEP may proceed under delegation.

The amending LEP is to be finalised within 12 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 s54(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 Trent Wink of the regional office of the department on 02 4904 2700.

Yours sincerely,

*SHaddad*

**Sam Haddad**  
**Director General**

*22 | 2 | 2013 .*

## Gateway Determination

**Planning proposal (Department Ref: PP\_2013\_NEWCA\_001\_00):** to rezone land at Minmi Road, Fletcher for residential and environmental conservation purposes.

I, the Director General, 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 the Newcastle Local Environmental Plan (LEP) 2005 to rezone land at 505 Minmi Road, Fletcher to R2 Low Density Residential and for environmental purposes and amend the maximum building height, floor space ratio and minimum lot size for land proposed to be zoned R2 should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to amend the planning proposal to identify the subject site as an Urban Release Area and adopt the department's model clauses 6.1 - Arrangements for designated State public infrastructure, 6.2 - Public utility infrastructure, 6.3 - Development control plan and 6.4 - Relationship between part and remainder of plan.
2. Prior to undertaking public exhibition, Council is to amend the planning proposal to include sufficient information regarding the impacts of the proposal on Aboriginal heritage. This information is to address the proposal's consistency or justify any inconsistency with S117 Direction 2.3 Heritage Conservation and should address the conservation of Aboriginal objects and places which may exist along the unnamed drainage channel.
3. Council is to consult with the Mine Subsidence Board regarding the amended subdivision layout as per the requirements of S117 Direction 4.2 Mine Subsidence and Unstable Land and amend the planning proposal, if necessary to take into consideration any comments made prior to undertaking public exhibition.
4. Council is to consult with the NSW Rural Fire Services as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary, to take into consideration any comments made prior to undertaking public exhibition.
5. Council is to demonstrate that the planning proposal satisfies the requirements of State Environmental Planning Policy No 55 (SEPP 55) – Remediation of Land. Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
6. 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 must be made publicly available for **28 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 and Infrastructure 2012)*.



7. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- NSW Rural Fire Service
- NSW Aboriginal Lands Council
- Office of Environment and Heritage
- Mine Subsidence Board

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

8. 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).

9. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 22<sup>nd</sup> day of February 2013.

**Sam Haddad**  
**Director General**  
**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_001_00	Planning proposal to rezone land at 505 Minmi Road, Fletcher to R2 Low Density Residential and for environmental purposes and amend the maximum building height, floor space ratio and minimum lot size for land proposed to be zoned R2.

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 22 | 2 | 2013

Sam Haddad  
**DIRECTOR GENERAL**  
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_001_00
Date Sent to Department under s56	20/12/2012
Date considered at LEP Review Panel	07/02/2013
Gateway determination date	

**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: