

**ECONOMY & CIVIC ASSETS AND GOVERNANCE
STRATEGIC THEMES COMMITTEE MEETING
15 SEPTEMBER 2009**

ATTACHMENT C

CCL 15/09/2009

2009 AMENDMENTS TO THE NEWCASTLE LEP

Attachment C - Minor amendments to the Newcastle LEP

DISTRIBUTED UNDER SEPARATE COVER
--

Part 1 - Objectives or Intended Outcomes

To implement changes to the Newcastle LEP 2003 to ensure:

- (a) Subdivision for particular circumstances in Zones 1(a), 6(a), 7(a) and 7(c) is allowed;
- (b) Descriptions of existing heritage items are correct and up-to-date;
- (c) Minor mapping anomalies are corrected.

Part 2 - Explanation of Provisions

(a) Amendment of the Newcastle LEP 2003 to include the following in *Schedule 2 Complying Development*:

Column 1	Column 2
Development	Development standards and other requirements
Subdivision Subdivision for the purpose of: (a) adjusting a boundary between lots (that does not result in an increased number of lots), or (b) correcting an encroachment on a lot, or (c) consolidating lots, including on land that is below the level corresponding to 0.5 metre above the 1% annual exceedance probability flood level, or (d) widening a public road, or (e) a permanent road closure, not on land that is below the level corresponding to 0.5 metre above the 1% annual exceedance probability flood level.	Lot size • The area of any allotment created within Zone 2 (a) or 2 (b) is at least 450 square metres. Setbacks • Allotment boundaries are located so as to provide a 0.9 metre side boundary setback from existing dwellings. • Allotment boundaries are located in relation to buildings other than dwellings so as to comply with applicable deemed-to-satisfy provisions of the <i>Building Code of Australia</i>. Services • Each allotment has legal access to utility services, whether by disconnection and relocation of existing services or provision of appropriate easements. Road closure • Land comprising any closed road is to be consolidated with adjoining lots where size of the land would not comply with zone requirements for lot sizes. Bush fire • The development is not on land that is bush fire prone land except in the case of a minor boundary adjustment to

address a building
encroachment or a
subdivision for a permanent
road closure.

(b) Amendment of the Newcastle LEP 2003 to:

Reword in *Schedule 6 Heritage items and heritage conservation* the following items,

Suburb	Item name	Address	Property Description	Significance
Minmi	Co-op Coal Co's Air Furnace Shaft	141 Minmi Road	Lot 34 DP 800036	Local
Merewether	Beach Pavilion	80 Watkins Street		Local

to read:

Suburb	Item name	Address	Property Description	Significance
Minmi	Duckenfield No. 2 Colliery Air Furnace Shaft'	141 Minmi Road	Lot 34 DP 800036	Local
Merewether	Beach Pavilion	5 Henderson Parade	Lot 100 DP 1130581	Local

(c) Amendment to the Newcastle LEP 2003 zoning map in accordance with the proposed zoning maps shown in Appendix 3, on Sheets 4 to 14.

Part 3 – Justification

Section A - Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

The planning proposal is not the direct result of any strategic study or report, but is the yearly housekeeping amendment correcting minor anomalies in the Newcastle LEP 2003.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

A planning proposal is the best way to achieve the desired outcomes.

- The proposed changes to controls on subdivision are required to (re)implement a policy, inadvertently removed during the making of a former plan.
- Minor amendments to the heritage schedule are required to keep the plan up to date.
- Minor amendments to zoning maps are required to ensure the local environmental plan is up to date.

3. Is there a net community benefit?

A net community benefit test was not undertaken due to the minor nature of the planning proposal. The planning proposal is considered beneficial to the community as the principle Newcastle LEP 2003 will remain functional and up to date.

Section B - Relationship to strategic planning framework.

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

There are no changes to policy in the planning proposal and the minor amendments proposed are consistent with the Lower Hunter Regional Strategy.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

The Newcastle Urban Strategy is Council's local strategic planning document. The planning proposal is consistent with the document.

6. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with State Environmental Planning Policies (refer to Appendix 2).

7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The planning proposal is consistent with Section 117 directions (refer to Appendix 3).

Section C - Environmental, social and economic impact.

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal involves minor administrative changes to the instrument.

9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal involves minor administrative changes to the instrument.

10. How has the planning proposal adequately addressed any social and economic effects?

The planning proposal intends to update the description of items currently listed to ensure they are identified correctly. It is considered due to the minor nature of the amendment social and economic effects are negligible, except to the benefit for a community of having an up to date planning instrument.

Section D - State and Commonwealth interests.

11. Is there adequate public infrastructure for the planning proposal?

The planning proposal seeks minor administrative changes to the instrument and as such there will be no effect on public infrastructure.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

No consultation has been carried out at this stage. Consultation will occur with relevant State and Commonwealth Public Authorities identified as part of the gateway determination.

Part 4 – Community Consultation

The planning proposal is considered to be of low impact, in that:

- it is consistent with the pattern of surrounding land uses;
- is consistent with the strategic planning framework;
- presents no issues with regard to infrastructure servicing;
- is not a principle LEP; and
- does not reclassify public land.

In accordance with “A guide to preparing local environmental plans” it is proposed to publicly exhibit the planning proposal for a period of 14 days.

Appendix 1: Consideration of State Environmental Planning Policies

	Applicable	Consistent	Reason for inconsistency
State Environmental Planning Policy No 1—Development Standards	No	n/a	
State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development	Yes	Yes	
State Environmental Planning Policy No 6—Number of Storeys in a Building	No	n/a	
State Environmental Planning Policy No 14—Coastal Wetlands	No	n/a	
State Environmental Planning Policy No 15—Rural Landsharing Communities	No	n/a	
State Environmental Planning Policy No 19—Bushland in Urban Areas	No	n/a	
State Environmental Planning Policy No 21—Caravan Parks	No	n/a	
State Environmental Planning Policy No 22—Shops and Commercial Premises	No	n/a	
State Environmental Planning Policy No 26—Littoral Rainforests	No	n/a	
State Environmental Planning Policy No 29—Western Sydney Recreation Area	No	n/a	
State Environmental Planning Policy No 30—Intensive Agriculture	No	n/a	
State Environmental Planning Policy No 32—Urban Consolidation (Redevelopment of Urban Land)	No	n/a	
State Environmental Planning Policy No 33—Hazardous and Offensive Development	No	n/a	
State Environmental Planning Policy No 36—Manufactured Home Estates	No	n/a	
State Environmental Planning Policy No 39—Spit Island Bird Habitat	No	n/a	
State Environmental Planning Policy No 41—Casino Entertainment Complex	No	n/a	
State Environmental Planning Policy No 44—Koala Habitat Protection	No	n/a	

State Environmental Planning Policy No 47—Moore Park Showground	No	n/a	
State Environmental Planning Policy No 50—Canal Estate Development	No	n/a	
State Environmental Planning Policy No 52—Farm Dams and Other Works in Land and Water Management Plan Areas	No	n/a	
State Environmental Planning Policy No 53—Metropolitan Residential Development	No	n/a	
State Environmental Planning Policy No 55—Remediation of Land	No	n/a	
State Environmental Planning Policy No 59—Central Western Sydney Economic and Employment Area	No	n/a	
State Environmental Planning Policy No 60—Exempt and Complying Development	No	n/a	
State Environmental Planning Policy No 62—Sustainable Aquaculture	No	n/a	
State Environmental Planning Policy No 64—Advertising and Signage	No	n/a	
State Environmental Planning Policy No 65—Design Quality of Residential Flat Development	No	n/a	
State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)	No	n/a	
State Environmental Planning Policy No 71—Coastal Protection	No	n/a	
State Environmental Planning Policy (Affordable Rental Housing) 2009	No	n/a	
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	No	n/a	
State Environmental Planning Policy (Exempt and Complying Development Codes) 2008	No	n/a	
State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004	Yes	Yes	
State Environmental Planning Policy (Infrastructure) 2007	Yes	Yes	
State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007	No	n/a	
State Environmental Planning Policy (Major Development) 2005	Yes	Yes	

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007	Yes	Yes	
State Environmental Planning Policy (Rural Lands) 2008	No	n/a	
State Environmental Planning Policy (Sydney Region Growth Centres) 2006	No	n/a	
State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007	No	n/a	
State Environmental Planning Policy (Western Sydney Parklands) 2009	No	n/a	

Appendix 2: Consistency with Section 117 Directions

	Applicable	Consistent	Reason for inconsistency
1. Employment and Resources			
1.1 Business and Industrial Zones	Yes	No	See below
1.2 Rural Zones	No	Not applicable	
1.3 Mining, Petroleum Production and Extractive Industries	No	Not applicable	
1.4 Oyster Aquaculture	No	Not applicable	
1.5 Rural Lands	No	Not applicable	
2. Environment and Heritage			
2.1 Environment Protection Zones	No	Not applicable	
2.2 Coastal Protection	No	Not applicable	
2.3 Heritage Conservation	Yes	Yes	
2.4 Recreation Vehicle Areas	No	Not applicable	
3. Housing, Infrastructure and Urban Development			
3.1 Residential Zones	Yes	Yes	
3.2 Caravan Parks and Manufactured Home Estates	No	Not applicable	
3.3 Home Occupations	No	Not applicable	
3.4 Integrating Land Use and Transport	No	Not applicable	
3.5 Development Near Licensed Aerodromes	No	Not applicable	
4. Hazard and Risk			

4.1 Acid Sulfate Soils	No	Not applicable	
4.2 Mine Subsidence and Unstable Land	No	Not applicable	
4.3 Flood Prone Land	No	Not applicable	
4.4 Planning for Bushfire Protection	No	Not applicable	
5. Regional Planning			
5.1 Implementation of Regional Strategies	Yes	Yes	
5.2 Sydney Drinking Water Catchments	No	Not applicable	
5.3 Farmland of State and Regional Significance on the NSW Far North Coast	No	Not applicable	
5.4 Commercial and Retail Development along the Pacific Highway, North Coast	No	Not applicable	
5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	No	Not applicable	
5.6 Sydney to Canberra Corridor (Revoked 10 July 2008. See amended Direction 5.1)	No	Not applicable	
5.7 Central Coast (Revoked 10 July 2008. See amended Direction 5.1)	No	Not applicable	
5.8 Second Sydney Airport: Badgerys Creek	No	Not applicable	
6. Local Plan Making			
6.1 Approval and Referral Requirements	Yes	Yes	
6.2 Reserving Land for Public Purposes	Yes	Yes	
6.3 Site Specific Provisions	Yes	Yes	

1.1 The proposed amendment to the mapping anomaly, as shown in Appendix 3, sheet 13, will marginally reduce the amount land zoned 3(a) Local Centre. It is considered the provisions contained in the planning proposal are of a minor significance.