

Agenda Report

ACTION ITEM

Ordinary Council
Tuesday, 25 February 2014

**SUBJECT: CCL 25/02/14 - ENDORSEMENT OF PROPOSED
AMENDMENTS TO NEWCASTLE LOCAL
ENVIRONMENTAL PLAN 2012 - VARIOUS SITES**

RESOLVED: (Councillors Posniak/Waterhouse)

Council resolves to:

- a) Endorse the attached planning proposals to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*, in order to:
 - (i) Enable medium density residential development on Lot 22 DP 1178276, 15 Tinonee Road, Waratah, as outlined in **Attachment A**.
 - (ii) Enable redevelopment for a medical centre and pharmacy on Lot 8 DP 236395, 400 Glebe Road, Hamilton South, as outlined in **Attachment B**.
 - (iii) Enable commercial development on Lot 1 DP 76498, Lot 1 DP 798322, Lot 1 DP 780731, Lot 2 DP 711545, Lot 1 DP 111245 & Lot 1 DP 1081339, 11-19 Minmi Road, Wallsend, as outlined in **Attachment C**.
- b) Forward the planning proposals to the Minister for Planning and Infrastructure for gateway determination pursuant to Section 56 of the *EP&A Act 1979*.
- c) Advise the Director-General of the Department of Planning and Infrastructure that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act 1979*.
- d) Consult with the community and relevant government agencies as instructed by the gateway determination.
- e) Receive a report back on any planning proposal to which a written objection is received during consultation with the community as per the requirements of Section 57 of the *EP&A Act 1979*; otherwise forward the planning proposals to the Department of Planning and Infrastructure requesting to make the proposed amendments to Newcastle LEP 2012.

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**REPORT BY: FUTURE CITY
CONTACT: ACTING DIRECTOR FUTURE CITY / MANAGER
STRATEGIC PLANNING SERVICES**

PURPOSE

This report seeks Council's endorsement of planning proposals to commence the statutory process to prepare amendments to Newcastle Local Environmental Plan (LEP) 2012.

RECOMMENDATION

1 Council resolves to:

- a) Endorse the attached planning proposals to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*, in order to:
 - (i) Enable medium density residential development on Lot 22 DP 1178276, 15 Tinonee Road, Waratah, as outlined in **Attachment A**.
 - (ii) Enable redevelopment for a medical centre and pharmacy on Lot 8 DP 236395, 400 Glebe Road, Hamilton South, as outlined in **Attachment B**.
 - (iii) Enable commercial development on Lot 1 DP 76498, Lot 1 DP 798322, Lot 1 DP 780731, Lot 2 DP 711545, Lot 1 DP 111245 & Lot 1 DP 1081339, 11-19 Minmi Road, Wallsend, as outlined in **Attachment C**.
- b) Forward the planning proposals to the Minister for Planning and Infrastructure for gateway determination pursuant to Section 56 of the *EP&A Act 1979*.
- c) Advise the Director-General of the Department of Planning and Infrastructure that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act 1979*.
- d) Consult with the community and relevant government agencies as instructed by the gateway determination.
- e) Receive a report back on any planning proposal to which a written objection is received during consultation with the community as per the requirements of Section 57 of the *EP&A Act 1979*; otherwise forward the planning proposals to the Department of Planning and Infrastructure requesting to make the proposed amendments to Newcastle LEP 2012.

KEY ISSUES

- 2 The planning proposals detail the type of amendment recommended to Newcastle LEP 2012 in order to achieve the intended outcomes. Furthermore, the planning proposals document the issues considered in assessing the appropriateness of the proposed amendment/s, and identify what further information may be required.
- 3 The planning proposals were prepared in accordance with the NSW Department of Planning and Infrastructure's guidelines and Council's Local Environmental Plan – Request for Amendment Policy.
- 4 If endorsed by Council, the planning proposals will be forwarded to the Minister of Planning and Infrastructure for gateway determination. Gateway determination will confirm initial support for the draft planning proposal, and identify what further technical studies and community consultation are required prior to the proposed amendments being determined.
- 5 Strategic Planning staff recommend that Council do not seek delegations under Section 59(1) of the *EP&A Act 1979* given the added impost on Council resources without any additional influence on the outcomes. These delegations obligate Council to prepare the final reporting, drafting and mapping in order for the Minister of Planning and Infrastructure to 'make' the proposed amendments to Newcastle LEP 2012. Where Council does not exercise these delegations, the Department of Planning and Infrastructure undertakes these requirements.
- 6 **Attachments A, B & C** outline the issues identified and considered by staff in evaluating the proposed amendments to Newcastle LEP 2012.

FINANCIAL IMPACT

- 7 Council is able to recoup costs associated with the preparation of a draft planning proposal, undertaking consultation, and preparation of technical studies, pursuant to Clause 11 of the *Environmental Planning and Assessment (EP&A) Regulation 2000*.
- 8 Fees (as outlined within Council's Fees and Charges Register) will be applied in accordance with Council's LEP Request for Amendment Policy (2012). That is, prescribed fees apply to all formal requests, except where required for the provision of public infrastructure or as a result of correcting a minor anomaly.
- 9 Where costs are unable to be recouped partly or in full, work will be undertaken by Council's Strategic Planning Services staff within their current allocated work program and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 10 The preparation and processing of the attached draft planning proposals aligns to the strategic direction '*Open and Collaborative Leadership*' identified within the Newcastle 2030 Community Strategic Plan.
- 11 Compliance with the LEP amendment process, in particular, Section 57 of the *EP&A Act 1979*, will assist in achieving the strategic objective; "*Consider*

decision-making based on collaborative, transparent and accountable leadership” and the identified strategy 7.2b, which states: “Provide opportunities for genuine and representative community engagement in local decision making” as identified within the Newcastle 2030 Community Strategic Plan.

IMPLEMENTATION PLAN/IMPLICATIONS

- 12 The preparation of the attached planning proposals was undertaken in accordance with Council’s Local Environmental Plan – Request for Amendment Policy (2012). This policy identifies Council’s processes and responsibilities in applying the requirements of Part 3 of the *EP&A Act 1979* for amending an LEP.

RISK ASSESSMENT AND MITIGATION

- 13 The process of amending an LEP is prescribed by Part 3 of the *EP&A Act 1979*. Adherence to the legislative framework reduces the risk to both applicant and Council by ensuring that a planning proposal is considered with regard to relevant strategic planning documents and is determined in an appropriate timeframe.
- 14 Justification has been provided by the applicant for the formal LEP amendment requests.
- 15 Further consultation with stakeholders (including the broader community) will occur in accordance with the Minister’s requirements following gateway determination. This will ensure all relevant parties are able to consider and comment on the draft planning proposal prior to it being reported back to Council for final adoption of the proposed amendment.

RELATED PREVIOUS DECISIONS

- 16 Newcastle LEP 2012 was adopted by Council on 21 June 2011.

CONSULTATION

- 17 Each planning proposal outlines the level of consultation required. This is in accordance with the Department of Planning’s Guide to Preparing Local Environmental Plans. Low Impact proposals are exhibited for 14 days. These include proposals that: are consistent with the pattern of surrounding land use zones and/or land uses; are consistent with the strategic planning framework; present no issues with regard to infrastructure servicing; are not for a principal LEP; and do not reclassify public land. All other planning proposals are exhibited for 28 days.
- 18 The gateway determination will confirm the consultation requirements, however, it is envisaged that this will include a public notice in the Newcastle Herald, letter to adjoining property owners, publication on the City of Newcastle web page, and written referral to relevant government agencies, which may include but are not limited to:
 - Roads and Maritime Services (RMS)
 - Mine Subsidence Board.

OPTIONS

Option 1

- 19 The recommendation as at Paragraph 1.

Option 2

- 20 Council resolves not to proceed with the planning proposals. This is not the recommended option as it would not provide land owners opportunity to amend zoning, including associated development standards, or the opportunity for the community to provide feedback on the proposals.

BACKGROUND

- 21 Council has received requests to amend Newcastle LEP 2012, which were processed in accordance with Council's 'LEP – Request for Amendment Policy'. This included evaluation by Council's LEP Advisory Panel, which is made up of staff across various areas of Council and covers a broad range of technical expertise.
- 22 As a result of the above, a number of planning proposals were prepared. These requests were grouped together in order to avoid unduly delaying the anticipated timeframe for completion.
- 23 The planning proposals (**Attachments A, B & C**) explain the need and justification for the proposed amendment to Newcastle LEP 2012 in further detail.

REFERENCES

Nil

ATTACHMENTS

Attachment A: Planning Proposal – 15 Tinonee Road, Waratah
Attachment B: Planning Proposal – 400 Glebe Road, Hamilton South
Attachment C: Planning proposal – 11-19 Minmi Road, Wallsend

Attachments are distributed under separate cover.