

[Agenda Report](#)

**SUBJECT: CCL 27/10/15 - NEWCASTLE EYE HOSPITAL - ADOPTION
OF AMENDMENT TO NEWCASTLE LOCAL
ENVIRONMENTAL PLAN 2012**

RESOLVED: (Councillors Rufo/Posniak)

Council resolves to:

- a) Endorse Planning Proposal PP_2015_NEWCA_002_00 for land at Lots 2, 3 & 4 DP 21366; Lot 7 DP 660745; Lot 8 DP 660746; Lots 1 & 2 DP 1114442 and Lots 100 and 101 DP 569322, with a street address of 174 - 182 Christo Road, Waratah and 114 - 116 Griffiths Road, Lambton to:
 - i) include 'health services facility' as an additional Schedule 1 permitted use.
 - ii) amend the height of buildings map to include a maximum permissible height of 10 metres over part of the land.
- as outlined in the Planning Proposal at **Attachment A**.
- b) Forward Planning Proposal PP_2015_NEWCA_002_00 to the Department of Planning and Environment requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59(1) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.
 - c) Advise the Secretary of the Department of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act*.

**SUBJECT: CCL 27/10/15 - NEWCASTLE EYE HOSPITAL - ADOPTION
OF AMENDMENT TO NEWCASTLE LOCAL
ENVIRONMENTAL PLAN 2012**

**REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER
STRATEGIC PLANNING**

PURPOSE

To inform Council of the outcomes of the community consultation and seek Council endorsement to amend the Newcastle Local Environmental Plan 2012 to allow the expansion, alterations and additions to the Newcastle Eye Hospital.

RECOMMENDATION

1 Council resolves to:

- a) Endorse Planning Proposal PP_2015_NEWCA_002_00 for land at Lots 2, 3 & 4 DP 21366; Lot 7 DP 660745; Lot 8 DP 660746; Lots 1 & 2 DP 1114442 and Lots 100 and 101 DP 569322, with a street address of 174 - 182 Christo Road, Waratah and 114 - 116 Griffiths Road, Lambton to:
 - i) include 'health services facility' as an additional Schedule 1 permitted use.
 - ii) amend the height of buildings map to include a maximum permissible height of 10 metres over part of the land.

as outlined in the Planning Proposal at **Attachment A**.

- b) Forward Planning Proposal PP_2015_NEWCA_002_00 to the Department of Planning and Environment requesting that a draft Local Environmental Plan be prepared and made pursuant to Section 59(1) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*.
- c) Advise the Secretary of the Department of Planning and Environment that Council does not seek to exercise delegations for undertaking Section 59(1) of the *EP&A Act*.

KEY ISSUES

- 2 The Newcastle Eye Hospital was originally approved by Council in 1986 and is currently operating on the basis of "existing use rights" as health services facilities are not permitted in the R2 Low Density Residential Zone. The facility has now reached capacity and the landowner is seeking to expand in order to accommodate the demand for increased and improved health services. Existing use rights do not extend to the proposed expansion hence the proposed amendment to the Newcastle LEP to allow a development application for the alterations and additions to be considered by Council.

- 3 The Planning Proposal to amend the Newcastle LEP was initiated by the Newcastle Eye Hospital in December 2014 to regularise the eye hospital use as a health services facility under the current planning framework and to amend the height of buildings map to include a maximum height of 10 metres over part of the land (fronting Griffiths Road). Please refer to Part 4 - Mapping in the Planning Proposal at **Attachment A** to view the proposed height of buildings map.
- 4 The Department of Planning and Environment (DP&E) issued a gateway determination on 29 April 2015 in support of the Planning Proposal proceeding to community consultation. The gateway determination required a public exhibition period of 14 days.
- 5 Council staff agreed to concurrently exhibit a development application with the Planning Proposal under section 72J of the Environmental Planning and Assessment Act 1979. DA 2015/797 has been lodged with Council by the Newcastle Eye Hospital and is for demolition, alterations and additions to the health services facility, associated site works, site consolidation and signage. It should be noted that the development application will be assessed separately to the Planning Proposal in accordance with the normal development assessment process, and that this development application cannot be determined until such time as the Planning Proposal has been gazetted by the DP&E.
- 6 The Planning Proposal and development application were exhibited for 14 days from 15 August 2015 to 31 August 2015. Council received three written submissions. A summary of the issues raised within these submissions and Council's response to the issues are included in **Attachment B** of this report. It is noted that some of the issues raised in the submissions relate to matters specific to the development application. These issues have been referred to relevant Council officers and will be dealt with in further detail as part of the assessment of the development application.

FINANCIAL IMPACT

- 7 The costs involved in carrying out the recommendation are covered by Council's LEP Amendment (Stage C) fee, which was paid by the applicant. These fees are based on Council not exercising delegations under Section 59(1) of the *EP&A Act*.
- 8 Strategic Planning staff recommend Council does not seek delegations under Section 59(1) of the *EP&A Act* 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 Environment to 'make' the proposed amendments to Newcastle LEP 2012. Where Council does not exercise these delegations, the DP&E undertakes these requirements.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 9 The preparation and processing of the attached Planning Proposal aligns to the strategic direction 'Open and Collaborative Leadership' identified within the Newcastle 2030 Community Strategic Plan.
- 10 Compliance with the LEP amendment process, in particular Section 57 of the *EP&A Act*, 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*".

IMPLEMENTATION PLAN/IMPLICATIONS

- 11 The preparation of the attached Planning Proposal was undertaken in accordance with Council's LEP Amendment Policy (2012). This policy identifies Council's processes and responsibilities in applying the requirements of Part 3 of the *EP&A Act* for amending an LEP.

RISK ASSESSMENT AND MITIGATION

- 12 The process of amending an LEP is prescribed by Part 3 of the *EP&A Act*. Adherence to the legislative framework reduces the risk to both applicant and Council by ensuring that Planning Proposals are considered with regard to relevant strategic planning documents and are determined in an appropriate timeframe.

RELATED PREVIOUS DECISIONS

- 13 Council resolved on 24 March 2015 to endorse the Planning Proposal and forward it to the DP&E for gateway determination.

CONSULTATION

- 14 The Planning Proposal and development application were exhibited for a period of 14 days from 15 August 2015 to 31 August 2015 as required by the DP&E gateway determination.
- 15 Council received three written submissions objecting to the proposal. Refer to **Attachment B**.

OPTIONS

Option 1

- 16 The recommendation as at Paragraph 1. This is the recommended option.

Option 2

- 17 Council resolves not to proceed with Planning Proposal PP_2015_NEWCA_002_00 in **Attachment A** and thereby NOT amend Newcastle LEP 2012. This is not the recommended option.

- 18 The intent of the Planning Proposal is to include 'health services facility' as an additional Schedule 1 permitted use; and amend the height of buildings map to include a maximum height of 10 metres over part of the land to enable the Newcastle Eye Hospital to expand. If the amendment is not made then the Newcastle Eye Hospital will not be able to expand and update its services to meet increasing demand.
- 19 As this Planning Proposal received a gateway determination, if this option is pursued, Council will need to request that the Minister for Planning and Environment allow Council to discontinue the proposed amendment.

BACKGROUND

- 20 In December 2014 Council received a request to amend the Newcastle LEP 2012 to enable development for health services facility on land at 74-182 Christo Road, Waratah and 114-116 Griffiths Road, Lambton and to amend the height of buildings map to include a maximum permissible height of 10 metres over part of the land.
- 21 The request was considered by Council's internal LEP Advisory Panel (Panel), as per Council's 'Local Environmental Plan – Request for Amendment Policy'. The Panel consists of a range of staff in various fields who advise on potential issues to be addressed and identify studies required to support the proposal. Matters raised by the Panel have been satisfactorily addressed.
- 22 Council resolved to submit the Planning Proposal for a gateway determination at its meeting held on 24 March 2015. The gateway determination was issued on 29 April 2015, requiring Council to complete the amendment within nine months.
- 23 Public exhibition of the proposal concluded on 31 August 2015. Should Council resolve to support the Planning Proposal it will be submitted to DP&E with a request for the Minister to make the amendment.

ATTACHMENTS

- Attachment A:** Planning Proposal - PP_2015_NEWCA_002_00 – Newcastle Eye Hospital **Planning Proposal attached separately for DPE purposes**
- Attachment B:** Issues raised in submissions

Attachments distributed under separate cover.

**ORDINARY COUNCIL MEETING
27 OCTOBER 2015**

**CCL 27/10/15
NEWCASTLE EYE HOSPITAL - ADOPTION OF AMENDMENT TO
NEWCASTLE LOCAL ENVIRONMENT PLAN 2012**

Attachment B: Issues raised in submissions

ATTACHMENT B – Issues Raised in Submissions

Three submissions were received in relation to the Planning Proposal. The following table highlights the issues raised and includes a response to each issue.

Issue	Discussion	Response
Amenity	• Council should aim to retain the existing residential character of the area. • The proposed medical facility is inconsistent with the character of the surrounding residential area. • The health facility deals with Schedule 8 drugs, hazardous waste and volatile gases and is out of context with the residential character of the area. • The residential amenity of the area will be compromised by an increase in noise, smoke, smells, vapours and activities associated with the expansion of the Newcastle Eye Hospital (NEH). • The facility should be relocated to a more appropriate area. • The external appearance will not enhance the established area. • The residential amenity of the area has been undermined by the purchase of several homes. The removal of high quality residential homes will undermine housing opportunities for people. • The original staffing levels for the NEH have increased significantly since the original proposal.	• This is a prominent corner site with frontages to Griffiths Road, Lambton Road and Christo Road. While, it is proposed to include 7 additional lots into the site and demolish four existing dwellings (that are now owned by the Newcastle Eye Hospital), the submitted DA shows a new 2-storey building being erected on the Griffiths Road frontage with a car park being constructed in Christo Road. The building as shown in the DA will not be overbearing in this location. The proposed car park will alleviate on street car parking issues in Christo Road with two dwellings being retained between the car park and neighbouring dwellings to buffer the car park from residences not owned by the Eye Hospital. The DA will be assessed with the building design criteria of Newcastle DCP 2012 • Any drugs, gases and waste resulting from the operations of the facility will be managed in accordance with appropriate medical regulations. • The Newcastle Eye Hospital has been in operation at the subject site for 30 years. • The proposed amendment to accommodate the expansion of the Newcastle Eye Hospital is considered compatible with the surrounding residential area in broad strategic terms. • DA15/0797 has been lodged concurrently with the Planning Proposal. The assessment of this DA is a separate process

Issue	Discussion	Response
		to this planning proposal, however by lodging the DA concurrently with the Planning Proposal additional certainty is provided to residents to know what the future proposed development will be. The specific capacity of the site to expand and specific development controls relating to amenity and streetscape will be dealt with as part of the assessment of this DA. The proposed development is considered to be of significant benefit to the broader Hunter Region community, increasing provision of vital medical services.
Increased Traffic	• The proposed development will result in increased traffic. Traffic flow is disrupted by parked cars. The extra traffic from the eastern end of Christo Rd will undermine the character of the residential street. Christo Rd has limited access from Lambton Rd (left turn only - no right turn - buses only). This traffic configuration was implemented to lessen the amount of traffic using Christo Rd as a short cut. • The site is located near a special needs education facility which already generates extra traffic in the form of community buses. • Council should provide current traffic volume counts for this specific part of Christo Road.	• The extra traffic generated by the new development and the suitability of the local street network to accommodate the increase in traffic will be assessed by Council's traffic section as part of DA 15/0797. The Traffic and Parking Assessment lodged with DA15/0797 advises that the local and state road network has sufficient spare capacity to cater for the additional development traffic without adversely impacting on current levels of service. • It is acknowledged that the special needs education facility is located to the east of the site. The cumulative traffic impacts of the school and the expansion to the Newcastle Eye Hospital on the residential street will be considered (and conditioned) with the assessment of DA15/0797.
Parking	• Loss of off-street parking created major problems for the local residents, delivery services and people visiting the local area. Staff and clientele of the NEH park inappropriately across driveways and bus zones from 6:30am. Residents are	• Expansion of the site and provision of off-street parking by the Newcastle Eye Hospital is expected to alleviate the existing parking issues in the local street.

Issue	Discussion	Response
	unable to exit their driveways and have to park up to 200 metres from their premises. • The DA proposes forty eight (48) car parking bays. This seems excessive as the previous DA proposed to only cater for 6 to 8 patients a day & a maximum of 30 to 40 patients weekly. • The scale and design of the car parking area is out of context with the surrounding residential area. The car park should be relocated to Griffiths Road.	• The DCP requires the proposed development to provide 37 car parking spaces, 3 bike parking spaces and 2 motorbike parking spaces. • The Traffic Assessment which was lodged as part of DA15/0797 stated that the removal of the existing site accesses and replacement with 2 new separate entry and exit driveways to the site on Christo Road will have a positive impact on road safety in the area through the reduction in potential conflict points from the site and the relocation of the vehicular access to the hospital further east of Lambton Road. The location of the main 42 space, at-grade car park, is most suitable off Christo Road. The reduction in accesses from three to one on Griffith's Road and the use of the access for Doctor's only parking will result in an improved road safety environment along Griffiths Road in the vicinity of the site.
Noise	• Demolition of residential dwellings for expansion of the NEH will result in increased noise. • The sound of emptying rubbish bins by the contractor at all hours is disrupting the sleep of nearby residents.	• Councils Regulatory Services Unit deals with noise issues and advised that they have no objection to DA15/0797 subject to conditions. These conditions will ensure undesirable impacts of the Development will be managed. • Appropriate noise control strategies will be required to be implemented during construction of the proposed development. • Appropriate waste collection strategies will be determined as part of the DA assessment.
Dust and Debris	• Demolition of residential dwellings will lead to increased dust, debris and potential release of asbestos.	Appropriate conditions imposed on any development consent will address demolition, construction management, dust control, air

Issue	Discussion	Response
		impurity and matters under the <i>Protection of the Environment Operations Act 1997</i> .
Hours of Operation	The original DA proposed hours of 9:00am to 5:00pm with the occasional Saturday. Operation procedures were approximately only 30min with a 2hr recovery time. Are these stipulations still in place?	The hours of operation proposed under DA15/0797 are 7:00am-6:00pm Monday to Friday & 8:30am - 1:00pm Saturday, plus emergency cases as required.
Safety	• The safety of the disabled students at the nearby school is being compromised with the expansion of the NEH. • Since the expansion of the NEH, Police presence has diminished. Police are unable to set up radars to catch speeding drivers. This places school children at risk. • The car park within the NEH will attract skateboarding, bike riding, non-business related car parking, criminal behaviour and undermine the amenity of the residential area. The parking area will need to be monitored at all times.	• While safety of students at the nearby school is of paramount importance, it is a technical matter that can be addressed as part of the DA assessment. As noted previously, the Traffic Assessment which was lodged as part of DA15/0797 stated that the removal of the existing site accesses and replacement with 2 new separate entry and exit driveways to the site on Christo Road will have a positive impact on road safety in the area through the reduction in potential conflict points from the site and the relocation of the vehicular access to the hospital further east of Lambton Road • Matters pertaining to police presence at Christo Road can be raised with the Local Area Command of the NSW Police. • The management of the private car parking area is the responsibility of the land owner. Issues surrounding antisocial behaviour and crime in private car parks can be reported to the NSW Police.
Urban Form	• The NEH has outgrown its capacity. The scale of the building is out of context with the character of the residential area. • The location of the NEH creates overshadowing, denying residences sunshine. • Requests that the two storey level be relocated to the Christo Road side of the site. • The three storey building will undermine the privacy of the residential area.	• The Newcastle Eye Hospital has been in operation at the subject site for 30 years. The proposed amendment to enable a Health Services Facility to accommodate the expansion to the existing Newcastle Eye Hospital is considered compatible with the surrounding area in broad strategic terms. The specific capacity of the site in terms of

Issue	Discussion	Response
		parking, traffic and specific development controls relating to amenity and streetscape will be dealt with as part of the assessment of DA15/0797. This DA was exhibited concurrently with the Planning Proposal to provide surrounding residents with added certainty on the development. • DA15/0797 will be required to satisfy the design section of the DCP to provide solar access. The shadow diagrams submitted at Appendix D of Statement of Environmental Effects of the DA show that the majority of additional shadowing will be cast over Griffiths Road due to the location of the proposed building within the southern portion of the subject site. The remainder of the site has a negligible loss of shadowing due to the existence of houses already there. • The requested height increase from 8.5m to 10m on the Griffiths Road frontage of the site is considered to be generally away from the adjoining residential area. The requested height increase is 1.5m greater than the current permitted height of 8.5m. Where the site adjoins neighbouring residential property it is proposed to adopt a setback consistent with typical residential building height envelopes. • The proposed building is two storeys. The increase in height is required to support the necessary floor to ceiling heights for a health services facility and to ensure consistency of floor levels with the existing building.
Access	The community bus has difficulty stopping	Christo Rd is a busy residential

Issue	Discussion	Response
	to pick up passengers.	street. It is expected that the provision of 46 on-site car parking bays will enable the parking for the Newcastle Eye Hospital to be contained on the site and thus reduce congestion on Christo Rd to enable the community bus to pick up passengers.
Waste	Residential rubbish is often ignored by the garbage trucks as people often move bins out of the way to facilitate parking spaces.	The issue of waste disposal is not considered an issue for this Planning Proposal. It is expected that the provision of off street parking as shown in DA 15/0797 will be sufficient so as not to create any overflow effects to the surrounding residential dwellings.
General	• The DA for a "Medical Facility" means the applicant is not subjected to appropriate Development regulations. • New transport options means close proximity to a large Medical Hospital is no longer essential.	• DA15/0797 has been lodged for proposed alterations and additions to existing Health Services Facility. The DA is subject to all applicable development standards and controls and will be assessed against the relevant provisions of the Newcastle Local Environment Plan 2012 and the Newcastle Development Control Plan 2012, similar to any other DA. Assessment of the DA will include (but not be limited to) issues pertaining to car parking, traffic, hours of operation, amenity, noise, and waste management. • Notwithstanding, the proximity of the Newcastle Eye Hospital to the nearby John Hunter Hospital and Calvary Mater, Newcastle Eye Hospital remains important. The Newcastle Eye Hospital is the only facility within the Hunter Region that carries out emergency retinal surgery and if a patient presents to one of the nearby hospitals requiring such surgery, time is imperative in dealing with these cases to restore and save sight.