

Planning Services

Plan Finalisation Report

Local Government Area: Newcastle

File Number: 17/01668

1. NAME OF DRAFT LEP

Newcastle Local Environmental Plan 2012 Amendment No.27 (draft LEP).

2. SITE DESCRIPTION

The planning proposal applies to land at 21 Bradford Close Kotara (the site).

3. PURPOSE OF PLAN

The draft LEP seeks to:

- reclassify part of 21 Bradford Close (Lot 182 DP 850168) Kotara from community to operational.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Newcastle Electorate. Tim Crakanthorp MP is the State Member for Newcastle. Sharon Claydon MP is the Federal Member for Newcastle.

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.
--

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

The Gateway determination issued on 2 February 2017 ([Attachment C](#)) determined that the proposal should proceed subject to conditions. The proposal is due for finalisation on 9 February 2018.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 13 March 2017 to 10 April 2017. A public hearing was held on 11 May 2017.

No submissions were received during the exhibition period and no one from the public attended the public hearing.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was not required to consult with any public agencies in accordance with the Gateway determination.

8. POST EXHIBITION CHANGES

Council advised that there were no amendments made to the planning proposal following public exhibition.

ASSESSMENT

The subject parcel of land is the only part of the existing Kotara Homemaker Centre not owned and managed by the Centre owners. The Homemaker Centre is one of the largest contiguous bulky goods retail locations in the Hunter, being 11.5 hectares.

The subject parcel of land is not defined as public reserve or public park under the Local Government Act 1993, and is considered unsuitable for public open space other than continuance of the use of the shared pedestrian path and cycleway which crosses the land. It is noted that this is to be maintained in perpetuity as a condition of sale, including easements for public access.

The subject site contains easements for drainage, sewer and pipeline that will remain unchanged and maintained by the future owner.

The reclassification process is the best way to achieve the objective of selling the land to the surrounding land owner so the whole site can be maintained and managed efficiently and effectively.

It is recommended that the draft LEP be made.

Section 117 Directions

The Minister's delegate advised Council of the following matters in relation to applicable Section 117 Directions, that:

- the inconsistency with the following 117 Directions was considered of minor significance -
 - o 4.1 Acid Sulfate Soils;
 - o 4.3 Flood Prone land; and
- under Direction 6.2 Reserving Land, the Minister's delegate agreed with the reduction in land for public open space for public purposes on the basis that the land is not a public reserve (nor is it used as one), and that the existing shared pedestrian path/cycleway will be perpetually maintained as a condition of sale.

State Environmental Planning Policies

The draft LEP is consistent with SEPP 44 (Koala Habitat Protection) and 64 (Advertising and signage) that apply to the site.

9. MAPPING

There are no maps with this amendment.

10. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument (Tab D). Council confirmed on 17 July 2017 that it was happy with the draft and that the Plan should be made (Tab E).

11. PARLIAMENTARY COUNSEL OPINION

On 18 July, 2017 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at Tab PC.

12. RECOMMENDATION

It is recommended that the Minister's delegate determine to make the draft LEP because:

- this parcel of land is the only parcel within the existing 11.5ha retail centre that is not owned by Centre management;
- the amendment will reclassify part of 21 Bradford Close (Lot 182 DP 850168) Kotara from community to operational to enable it to be sold to the surrounding land owner, enabling the whole of the Homemaker Centre to be managed more effectively and efficiently; and
- arrangements are in place to ensure that the public reserve functions of the land continue to be provided, being:
 - o the existing shared pedestrian path/cycleway will be perpetually maintained as a condition of sale; and
 - o drainage channel, sewer and pipeline easements.