

## Planning and Assessment

IRF20/5025

### Plan finalisation report

**Local government area:** Newcastle

#### 1. NAME OF DRAFT LEP

Newcastle Local Environmental Plan 2012 (Amendment No 49)

#### 2. SITE DESCRIPTION

The section 3.22 request (**Attachment A**) applies to Clause 6.8 of *Newcastle Local Environmental Plan (LEP) 2012* – temporary use of restaurants and small bars for extended hours. The clause gives nominated premises the ability to extend trading hours, as a late night economy trial from 1 October 2020 until 31 March 2021.

All nominated premises are located in Newcastle City Centre and have a current development consent and liquor license to operate as either a restaurant or small bar.

#### 3. PURPOSE OF PLAN

The section 3.22 request under the *Environmental Planning and Assessment Act 1979* seeks to correct the property descriptions in the nominated premises table of Clause 6.8 of *Newcastle Local Environmental Plan 2012*.

Some of the property descriptions were added to the table without a specified lot number or with an incorrect DP/SP number.

The amendment will ensure the correct legal property descriptions are listed.

#### 4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Newcastle state electorate. Mr Tim Crakanthorp MP is the State Member. The site falls within the Newcastle federal electorate. Ms Sharon Claydon MP is the Federal Member.

To the Central Coast and Hunter 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 City of Newcastle Council requested on that the local environmental plan amendment occur as an expedited amendment under section 3.22 of the *Environmental Planning and Assessment Act 1979*.

Council maintain the proposed amendment is consistent with section 3.22(1)(b) as it is needed to correct an inadvertent error which is deemed to be minor or inconsequential in nature.

Furthermore, the amendment is of a minor nature consistent with section 3.22(1)(b) and does not require consultation with other NSW Government agencies or the public.

As the amendment is to occur as an expediated local environmental plan amendment under section 3.22, no Gateway determination has been issued.

## **6. PUBLIC EXHIBITION**

As the amendment is to occur as an expediated local environmental plan amendment under section 3.22, no public exhibition has occurred.

## **7. ADVICE FROM PUBLIC AUTHORITIES**

As the amendment is to occur as an expediated local environmental plan amendment under section 3.22, no public authority consultation has occurred.

## **8. POST-EXHIBITION CHANGES**

No changes have been made to the proposal.

## **9. ASSESSMENT**

Clause 6.8 of *Newcastle Local Environmental Plan 2012* was gazetted by way of the *State Environmental Planning Policy (Newcastle Restaurants and Small Bars) 2020* (SEPP). The SEPP was made to facilitate a late-night trading trial for nominated premises in Newcastle City Centre.

The SEPP was subject to assessment, public authority consultation and public exhibition between 4 and 20 September 2020. Issues raised during exhibition and consultation relating to the late-night trading trial have been considered in the making and approval of the SEPP on 30 September 2020.

The amendment is appropriate to be made under section 3.22(1)(b) as the Plan provides corrections to property description errors and will have no significant adverse impact on the environment or adjoining land, consistent with section 3.22(1)(c).

### **9.1 Section 9.1 Ministerial directions**

As the amendment is occurring as an expedited local environmental plan amendment under section 3.22, no consideration of section 9.1 Ministerial directions is required.

### **9.2 State environmental planning policies**

As the amendment is occurring as an expedited local environmental plan amendment under section 3.22, no consideration of State policies is required.

### **9.3 State, regional and district plans**

As the amendment is occurring as an expedited local environmental plan amendment under section 3.22, no state or regional plans are relevant.

## **10. MAPPING**

No mapping is required.

## **11. CONSULTATION WITH COUNCIL**

City of Newcastle Council was consulted on the terms of the draft instrument (**Attachment B**) under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979*.

On 7 December 2020, Council confirmed it was happy with the draft and that the plan should be made (**Attachment C**).

## 12. PARLIAMENTARY COUNSEL OPINION

On 9 December 2020, Parliamentary Counsel provided the final Opinion that the draft local environmental plan could legally be made. This Opinion is provided at **Attachment PC**.

## 13. RECOMMENDATION

It is recommended the Minister's delegate as the local plan-making authority determine to make the draft local environmental plan under clause 3.36(2)(a) of the Act because it will ensure the correct legal property descriptions are listed for nominated premises to partake in the extended trading hour trial for restaurants and small bars and will have no significant environmental impacts on the land or adjoining land.

To give effect to this recommendation, the Minister's delegate is recommended to:

- Make the draft local environmental plan under section 3.36(2)(a) of the Environmental Planning and Assessment Act 1979 by signing the instrument (**Attachment B**); and
- Sign the letter to Council (**Attachment D**) advising of this decision.



21/12/2020

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**Planning and Assessment**

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