

**SUBJECT: CCL 29/04/14 - ENDORSEMENT OF PROPOSED
AMENDMENT TO NEWCASTLE LOCAL
ENVIRONMENTAL PLAN 2012 - LOCAL GOVERNMENT
BOUNDARY ADJUSTMENT**

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

PURPOSE

This report seeks Council's endorsement of a planning proposal to commence the statutory process to prepare an amendment to Newcastle Local Environmental Plan (LEP) 2012 to adjust the local government area boundary between Newcastle and Lake Macquarie.

The new boundary will partly follow the Newcastle Link Road and then a future RMS road that will link the Newcastle Link Road with Lake Road in the vicinity of Macquarie College as shown on the map in the planning proposal at **Attachment A**.

RECOMMENDATION

1 Council resolves to:

- a) Endorse the attached planning proposal to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*, in order to enable the LEP maps to be amended to reflect the change to the Local Government Boundary as outlined in **Attachment A**.
- b) Forward the planning proposal 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 the planning proposal if a written objection is received during the consultation required by Section 57 of the *EP&A Act 1979* with the community; otherwise forward the planning proposal to the Department of Planning and Infrastructure requesting the Minister make the proposed amendment to Newcastle LEP 2012.

KEY ISSUES

- 2 The Office of Local Government (OLG) is the State agency responsible for determining local government area boundaries. Council has received advice from OLG that it has approved the application made by The City of Newcastle and Lake Macquarie City Council to adjust the boundary between the two councils as shown in the planning proposal at **Attachment A**.
- 3 As a result of this adjustment, the councils will need to amend their LEP maps to show the new “area of application” of each LEP and ensure the land has relevant planning controls (zoning, building heights, minimum lot sizes, etc).
- 4 The amendment to the LEP maps requires following a formal LEP amendment process. A planning proposal has therefore been prepared in accordance with the NSW Department of Planning and Infrastructure’s guidelines and Council’s Local Environmental Plan – Request for Amendment Policy and in consultation with planning staff from Lake Macquarie City Council.
- 5 If endorsed by Council, the planning proposal will be forwarded to the Minister for 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.
- 6 Strategic Planning staff recommend that Council does 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 for 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.
- 7 **Attachment A** outlines the issues identified and considered by staff in evaluating the proposed amendment to Newcastle LEP 2012.

FINANCIAL IMPACT

- 8 The work will be undertaken by Council’s Urban Planning Team within the current allocated work program and budget. As the LEP amendment was initiated by Council, fees are not applicable.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 9 The preparation and processing of the attached draft 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 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

- 11 The preparation of the attached planning proposal was undertaken in accordance with Council’s LEP amendment policy, NSW Planning and Infrastructure guidelines and in consultation with Lake Macquarie City Council planning staff.
- 12 The boundary adjustment will alter the land within Council's LGA and therefore will alter the land to which Council's statutory documents, plans and policies apply. Once the boundary is adjusted, the land transferred to Council will become unzoned and hence the need for this planning proposal.
- 13 The adjustment of the boundary will require some council documents, maps, promotional material and website to be amended to reflect the change to the local government boundary. Also adjustments will be required to be made to the suburb boundaries once the additional land is transferred to Council.
- 14 The land is currently largely undeveloped. Adjusting the boundary now will simplify future decision making with regard to the provision of services, community infrastructure and the assessment of development applications.

RISK ASSESSMENT AND MITIGATION

- 15 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 Council by ensuring that a planning proposal is considered with regard to relevant strategic planning documents and is determined in an appropriate timeframe.
- 16 As the land is largely undeveloped, the boundary adjustment is unlikely to cause an increased risk to Council operations. Resolving this issue prior to urban development will decrease the risk of cross boundary issues between Newcastle City Council and Lake Macquarie City Council.

RELATED PREVIOUS DECISIONS

- 17 Newcastle LEP 2012 was adopted by Council on 21 June 2011
- 18 Council resolved to proceed with the Local Government Boundary adjustment on 21 July 2009

CONSULTATION

- 19 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.

- 20 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 where required.

OPTIONS

Option 1

- 21 The recommendation as at Paragraph 1.

Option 2

- 22 Council resolves not to proceed with the planning proposals. This is not the recommended option as it would not allow the LEP to be amended to reflect the revised local government boundary and there would be no planning controls for the land that will be included in the Newcastle LGA as a result of the boundary adjustment.

BACKGROUND

- 23 Council and Lake Macquarie Council resolved in 2009 to submit an application to the then Division of Local Government to adjust the Local Government boundary at Minmi and Glendale to better align the boundary with future development in the Western Corridor area.
- 24 The Office of Local Government advised Council in February 2014 the boundary adjustment will be gazetted shortly and therefore a Planning Proposal has been prepared to amend the maps in the LEP to reflect the revised boundary.
- 25 The planning proposal (**Attachment A**) explains the need and justification for the proposed amendment to Newcastle LEP 2012 in further detail

ATTACHMENTS

Attachment A: Planning Proposal

Attachment A to be distributed under separate cover.