

SUBJECT: CCL 26/03/19 - 233 WHARF ROAD AND 150 & 150A SCOTT STREET NEWCASTLE - ENDORSEMENT OF AMENDMENT TO NEWCASTLE LEP 2012

REPORT BY: GOVERNANCE
CONTACT: DIRECTOR GOVERNANCE / MANAGER REGULATORY, PLANNING AND ASSESSMENT

PURPOSE

This report seeks Council's endorsement to commence the statutory process for amending the Newcastle Local Environmental Plan 2012 (NLEP 2012) to rezone and reclassify 233 Wharf Road Newcastle and rezone part 150 (Parcel 12) and part 150A Scott Street Newcastle.

RECOMMENDATION

That Council:

- 1 Endorse the attached Planning Proposal (**Attachment A**) prepared in accordance with Section 3.33 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).
- 2 Forward the Planning Proposal to the Minister for Planning and Environment for Gateway Determination pursuant to Section 3.34 of the EP&A Act.
- 3 Receive a report back on the Planning Proposal following public exhibition and public hearing.

KEY ISSUES

- 4 At the Ordinary Council Meeting held on 27 September 2016, Council resolved to endorse a Planning Proposal for surplus rail corridor land between Worth Place and Watt Street, Newcastle and to forward the Planning Proposal to the Minister for Planning and Environment for Gateway determination. On 13 December 2016, Gateway determination was issued by the NSW Department of Planning and Environment (DPE).
- 5 The Gateway determination included several conditions, including the removal of Parcel 12 (Part 150 Scott Street Newcastle) from the Planning Proposal. The DPE provided the following reasons for their decision:

"In making this determination, I have carefully considered the proposed rezoning of Parcel 12. I understand the challenges that this site has posed for Council when determining planning controls, particularly considering the uncertainty regarding the longer-term future of the adjacent land. As such I have determined not to support Parcel 12 proceeding as part of the broader planning proposal. I am of the opinion that Parcel 12 should not proceed separately but as a consolidated proposal for both the site and the adjacent Council owned land."

- 6 NLEP 2012 (Amendment No 32) in relation to the rezoning of the Rail Corridor, was Gazetted on 17 April 2018.
- 7 Further investigation into the future use of Parcel 12 (currently owned by Hunter Central Coast Development Corporation (HCCDC) and 233 Wharf Road Newcastle (owned by City of Newcastle (CN)) has been undertaken by CN in consultation with HCCDC.
- 8 It is proposed to include 233 Wharf Road and part 150 Scott Street Newcastle on the key sites map to ensure a high-quality design outcome is achieved. The inclusion of these sites will require future development to comply with clause 7.5 (Design Excellence) of the NLEP 2012. Clause 7.5 ensures that development consent is not granted unless the development exhibits design excellence. One of the requirements of this clause is that all development noted on the Key Sites Map requires an architectural design competition conducted in accordance with NSW Government Architect's Design Excellence Competition Guidelines.
- 9 Development application DA2012/00463 was approved under delegation on 7 February 2019 for the subdivision of the land to provide for separate allotments for the Newcastle Station, Market Street Lawn, the Signal Box and Parcel 12. The subdivision will facilitate the dedication of Parcel 12 and Market Street Lawn to CN.
- 10 233 Wharf Road Newcastle will continue to be used as a car park in the short to medium term.
- 11 Following the deferral of Parcel 12 by DPE, the land was subdivided to facilitate the light rail works. 150A Scott Street Newcastle forms part of the footpath and contains street trees and smart poles. This site is currently owned by Transport for NSW but will be dedicated to CN. This site is also zoned SP2 Infrastructure and as such is proposed to be included in this Planning Proposal to ensure an appropriate zone is applied to the site.
- 12 Prior to DPE removing Parcel 12 from the rail corridor Planning Proposal, Council endorsed as part of the Planning Proposal to rezone the site part SP3 Tourist (HOB 17 metres and FSR 2.5:1) and Part RE1 Public Recreation. The proposed zoning and planning controls were chosen to ensure residential flat buildings were not constructed on this site and to establish a more suitable interface between any future development and Market Street Lawn, as the future owner / developer of the site was not known at that stage.
- 13 As the future ownership has been resolved and use of the land for a multi purpose community space is now being investigated, a detailed assessment of the consolidated site has been undertaken, taking into consideration existing view corridors, impact on surrounding development and the interface with Market Street Lawn and the waterfront.
- 14 A Visual Impact Statement was completed by Moir Landscape Architects as part of the previous rail corridor rezoning and modelled a 17 metre building height for Parcel 12. The assessment noted the importance of protecting view

corridors along Brown and Perkins Street as well as fragmented view to the harbour from Hunter Street. The visual impact (at a height of 17 metres) would be greatest felt from buildings fronting Hunter and Scott Street, as well as properties from higher elevations to the south (ie. Church Street) as the proposed development may be visible.

- 15 Now that the site has been consolidated with 233 Wharf Road Newcastle and includes all of Parcel 12; the 17 metre height limit has been lowered to 14 metres and FSR to 2:1 to better complement surrounding development and protect view corridors from Hunter Street and from higher elevations to the south.
- 16 The proposed planning controls will allow flexibility in designing a building that provides a suitable interface to existing development to the west, Market Street Lawn and Wharf Road, while facilitating access to the waterfront.
- 17 A review of Newcastle Development Control Plan 2012 (NDCP 2012), Section 6.01 Newcastle City Centre is being undertaken to determine suitable site specific requirements, such as setbacks, view corridors and access to public domain areas and the waterfront. The draft DCP will be reported to Council separately for consideration. It is intended that the Planning Proposal and amended DCP will be exhibited together to ensure the community has an opportunity to comment on both documents.
- 18 The attached Planning Proposal proposes the following:
 - i) Rezone the land from SP2 Infrastructure and RE1 Public Recreation to SP3 Tourist - as the zone allows community facilities as a permissible land use.
 - ii) Apply a maximum building height of 14 metres.
 - iii) Apply a maximum floor space ratio of 2:1.
 - iv) Reclassify 233 Wharf Road Newcastle from Community to Operational land.
 - v) Include 233 Wharf Road and part 150 Scott Street Newcastle as a key site.
- 19 These planning controls will also apply to part 150A Scott Street Newcastle to ensure consistency with the adjoining parcel of land.
- 20 The Local Government Act 1993 requires the Governor's approval when a reclassification proposal seeks to remove any public reserve status. The DPE LEP Practice Note PN 16-001 Classification and reclassification of public land through a local environmental plan, requires consideration of a number of factors including the impacts of removing the public reserve status. The requirements in the Practice Note have been addressed in the Planning Proposal. The reclassification of public land from Community Land to

Operational Land also requires a public hearing be held following the public exhibition period.

FINANCIAL IMPACT

- 21 Work will be undertaken by CN Urban Planning within current allocated work program and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 22 The Planning Proposal aligns with the following Community Strategic Plan Directions:

Liveable Built Environment

- 5.2b Plan for an urban environment that promotes active and healthy communities.
- 5.4b Plan, provide and manage infrastructure that continues to meet community needs.

Open and Collaborative Leadership

- 7.1a Encourage and support long term planning for Newcastle, including implementation, resourcing, monitoring and reporting.
- 7.2a Conduct CN business in an open, transparent and accountable manner.
- 7.3a Provide opportunities for genuine engagement with the community to inform CN's decision-making.

IMPLEMENTATION PLAN/IMPLICATIONS

- 23 The implementation of the recommendation of this report will ensure that NLEP 2012 reflects the strategies and actions within Newcastle Urban Renewal Strategy.

RISK ASSESSMENT AND MITIGATION

- 24 The process of amending an LEP is prescribed by Part 3 of the EP&A Act. Adherence to the legislative framework reduces the risk by ensuring that a Planning Proposal is considered, with regard to relevant strategic planning documents and is determined in an appropriate timeframe.
- 25 Following Gateway determination, CN will consult with relevant State agencies to identify any further risk associated with redevelopment on the land.

RELATED PREVIOUS DECISIONS

- 26 At the Ordinary Council Meeting held on 27 September 2016, Council resolved to endorse a Planning Proposal for surplus rail corridor land between Worth

Place and Watt Street Newcastle and to forward the Planning Proposal to the Minister for Planning and Environment for Gateway determination.

- 27 On 13 December 2016, Gateway determination was issued by the NSW DPE, which removed Parcel 12 (part 150 Scott Street Newcastle) from the Planning Proposal.

CONSULTATION

- 28 Internal consultation with CN staff has been undertaken. Further consultation with stakeholders (including the relevant agencies and the community) will occur in accordance with the Minister's requirements following Gateway determination.
- 29 The Planning Proposal and amended DCP will be publicly exhibited. A public hearing will be held into the reclassification of 233 Wharf Road from Community Land to Operational Land.
- 30 Council will receive a report outlining the consultation outcomes prior to the plan being made and DCP adopted.

OPTIONS

Option 1

- 31 The recommendation as at Paragraphs 1-3. This is the recommended option.

Option 2

- 32 Council resolves not to proceed with the Planning Proposal. This option would not provide the opportunity for the community to provide feedback on the proposal. This is not the recommended option.

BACKGROUND

- 33 At the Ordinary Council Meeting held on 27 September 2016, Council resolved to endorse a Planning Proposal for surplus rail corridor land between Worth Place and Watt Street Newcastle and to forward the Planning Proposal to the Minister for Planning and Environment for Gateway determination. On 13 December 2016, Gateway determination was issued by the NSW Department of Planning and Environment.
- 34 The Gateway determination included several conditions, including the removal of Parcel 12 (Part 150 Scott Street Newcastle) from the Planning Proposal. The DPE decided this parcel of land should be deferred until further investigations had been undertaken of the future use of CN adjacent car park.

REFERENCES

Nil

ATTACHMENTS

Attachment A: Planning Proposal – 233 Wharf Road, part 150 and 150A Scott Street Newcastle - Proposed Amendments to Newcastle Local Environmental Plan 2012

Attachment A distributed under separate cover.