



Planning & Environment

Mr Ken Gouldthorp
General Manager
Newcastle City Council
PO Box 489
NEWCASTLE NSW 2300

Your ref: CCL 29/04/14
Our ref: PP_2014_NEWCA_006_00 (14/08482)

Att: Johannes Honnef

Dear Mr Gouldthorp,

Planning Proposal to amend Newcastle Local Environmental Plan 2012

I am writing in response to Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to address a number of housekeeping matters. These matters include various localised zoning and development intensity control changes, an additional heritage listing and the exemption from development approval for banners and minor civil works undertaken for or by Council in certain circumstances.

As delegate of the Minister for Planning, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed that the planning proposal's inconsistency with S117 Direction 1.1 Business and Industrial Zones and 4.3 Flood Prone Land is of minor significance. No further approval is required in relation to these Directions. Council may still need to obtain the agreement of the Director General to comply with the requirements of relevant S117 Directions. Council should ensure this occurs prior to the plan being made.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has **not accepted** delegation for this planning proposal.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any questions regarding this matter, I have arranged for Ken Phelan from the Department's Newcastle office to assist you. Mr Phelan can be contacted on (02) 49042705.

Yours sincerely,

27 June 2014
David Rowland
General Manager
Hunter and Central Coast Region

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Gateway Determination

Planning Proposal (Department Ref: PP_2014_NEWCA_006_00) Newcastle Local Environmental Plan 2012 (Amendment Number 6) Administrative Amendment

I, the General Manager, Hunter and Central Coast Region at Planning and Environment as delegate of the Secretary for Planning and Environment, have determined under section 56(2) of the EP&A Act that an amendment to the Newcastle Local Environmental Plan (LEP) 2012 to address a number of housekeeping matters, including various localised zoning and development intensity control changes, an additional heritage listing and the exemption from development approval for certain banners and minor civil works undertaken for or by Council.:

- 1) Council is to amend the proposal before exhibition to use the following local exemption clause for council works;
Council infrastructure development
 - (1) Development may be carried out by or on behalf of the Council without development consent on any land, other than land in a heritage conservation area, land containing a heritage item or land that is an environmentally sensitive area for exempt and complying development.
 - (2) Subclause (1) does not apply to the following development:
 - (a) the erection of a class 1–9 building under the *Building Code of Australia*,
 - (b) development that is not exempt development under *State Environmental Planning Policy (Infrastructure) 2007* and has a capital value of more than \$5,000,000.
- 2) The Secretary's Delegate accepts as minor the inconsistency of the proposal with S117 Direction 1.1 Business and Industrial Zones in respect of rezoning from commercial to residential at 12 Hansen Place, Shortland and at 1 Henry St Tighes Hill
- 3) Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013) and must be made publicly available for a minimum period of 14 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013).
- 3) Council exhibit alongside the Planning Proposal the Heritage Study and associated Conservation Management Plan in support of the proposed new heritage listing of 99 King Street ("Former Mulimbah House Site") as an archaeological site.
- 4) Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - Mine Subsidence Board

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions.

6) A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

7) The timeframe for completing the LEP is to be 9 months.

Dated 27th day of June 2014.



David Rowland
General Manager
Hunter and Central Coast Region
Growth Planning
Department of Planning and Environment

Delegate of the Minister for Planning