

Agenda Report

ACTION ITEM

Ordinary Council
Tuesday, 29 April 2014

**SUBJECT: CCL 29/04/14 - ADMINISTRATIVE AND HERITAGE
AMENDMENTS - ENDORSEMENT OF PROPOSED
AMENDMENTS TO NEWCASTLE LOCAL
ENVIRONMENTAL PLAN 2012**

RESOLVED: (Councillors Crakanthorp/Luke)

1 Council resolves to:

- a) Endorse the attached planning proposals to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*, in order to
 - i) Address various administrative matters as outlined in **Attachment A** (Planning Proposal – Administrative Amendments)
 - ii) Address various minor heritage matters as outlined in **Attachment B** (Planning Proposal – Minor Heritage Amendments)
- b) Forward the planning proposals 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 Planning and Infrastructure NSW 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 any planning proposal to which a written objection is received during consultation with the community as per the requirements of Section 57 of the *EP&A Act 1979*, otherwise forward the planning proposals to Planning and Infrastructure NSW requesting to make the proposed amendments to Newcastle LEP 2012.

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

PURPOSE

This report seeks Council's endorsement of planning proposals to commence the statutory process to prepare amendments to Newcastle Local Environmental Plan (LEP) 2012.

RECOMMENDATION

1 Council resolves to:

- a) Endorse the attached planning proposals to amend Newcastle Local Environmental Plan 2012, pursuant to Section 55 of the *Environmental Planning and Assessment Act 1979*, in order to
 - i) Address various administrative matters as outlined in **Attachment A** (Planning Proposal – Administrative Amendments)
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- b) Forward the planning proposals 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 Planning and Infrastructure NSW 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 any planning proposal to which a written objection is received during consultation with the community as per the requirements of Section 57 of the *EP&A Act 1979*, otherwise forward the planning proposals to Planning and Infrastructure NSW requesting to make the proposed amendments to Newcastle LEP 2012.

KEY ISSUES

- 2 The planning proposals detail the amendment recommended in order to address a number of administrative and minor heritage matters that were identified since the introduction of Newcastle LEP 2012.

- 3 The proposed amendments detailed in **Attachment A** (Planning Proposal – Administrative Amendments) include such matters as:
 - a) Enabling Council works and developments to be undertaken without development consent.
 - b) Correcting a series of mapping anomalies at:
 - 12 Hansen Place, 310 and 312 Sandgate Road, Shortland
 - 332 and 334 Darby Street, The Junction
 - 9 and 14 Milgate Street, Wallsend
 - 1 Henry Street, Tighes Hill.
 - Laman and King Street, Newcastle.
 - c) Allowing temporary promotional banners attached to a pole or lighting column in a public road, within the city centre, to be undertaken as exempt development.
- 4 The proposed amendments in **Attachment B** (Planning Proposal – Minor Heritage Amendments) include minor corrections to Schedule 5 Environmental Heritage and the Heritage Map of Newcastle LEP 2012 that address such matters as:
 - a) Wrong identification of items or properties due to recent subdivision of land.
 - b) Wrongly identified levels of significance due to items having been listed on the State Heritage Register.
 - c) Incorrect categorisation such as being identified as a ‘Heritage item’ instead of an ‘Archaeological site’.
 - d) Removal of items due to demolition, removal or the like.
 - e) Other minor anomalies.
- 5 Furthermore, the planning proposals document the issues considered in assessing the appropriateness of the proposed amendment/s, and identifies the level of further information that may be required.
- 6 The planning proposals were prepared in accordance with Planning and Infrastructure NSW guidelines and Council’s Local Environmental Plan – Request for Amendment Policy.
- 7 If endorsed by Council, the planning proposals will be forwarded to the Minister of 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.
- 8 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 of 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.

FINANCIAL IMPACT

- 9 As the planning proposals were initiated by Council, fees have not been collected to recoup costs. The work will be undertaken by Council's Strategic Land Use Planning staff within their current allocated work program and budget.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 10 The preparation and processing of the attached draft planning proposals aligns to the strategic direction '*Open and Collaborative Leadership*' identified within the Newcastle 2030 Community Strategic Plan.
- 11 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

- 12 The preparation of the attached planning proposals was undertaken in accordance with Council's Local Environmental Plan – Request for Amendment Policy (2012). This policy identifies Council's processes and responsibilities in applying the requirements of Part 3 of the *EP&A Act 1979* for amending an LEP.

RISK ASSESSMENT AND MITIGATION

- 13 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 both applicant and Council by ensuring that a planning proposal is considered with regard to relevant strategic planning documents and is determined in an appropriate timeframe.

RELATED PREVIOUS DECISIONS

- 14 Newcastle LEP 2012 was adopted by Council on 21 June 2011.

CONSULTATION

- 15 Each planning proposal outlines the level of consultation required. This is in accordance with Planning and Infrastructure NSW 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.

- 16 The planning proposal recommends a 14 day exhibition period.
- 17 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.

OPTIONS

Option 1

- 18 The recommendation as at Paragraph 1.

Option 2

- 19 Council resolves not to proceed with the planning proposals. This is not the recommended option as it would not enable the necessary amendments to allow efficient administration of the LEP, or the opportunity for the community to provide feedback on these proposals.

BACKGROUND

- 20 Council staff identified a number of matters that require amendment to Newcastle LEP 2012. As a result planning proposals were prepared and grouped together in order to avoid unduly delaying the anticipated timeframe for completion.
- 21 The planning proposals (**Attachments A and B**) explain the need and justification for the proposed amendment to Newcastle LEP 2012 in further detail.

ATTACHMENTS

- Attachment A:** Planning Proposal – Administrative Amendments
- Attachment B:** Planning Proposal – Minor Heritage Amendments

Attachments are distributed under separate cover.