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| 16SP062 | Adoption of Draft Amendments to Lake Macquarie LEP 2014 and DCP 2014 - Appletree Grove Estate, West Wallsend |
| Council Ref: | RZ/1/2015 - D07957188 |
| Report By: | Senior Strategic Landuse Planner - Andrew Donald |

Précis:

Draft amendments to Lake Macquarie Local Environmental Plan (LMLEP) 2014 and Lake Macquarie Development Control Plan (LMDCP) 2014 have been prepared to extend the West Wallsend Heritage Conservation Area to include the Appletree Grove Estate, and to incorporate planning controls prepared specifically for the estate into the West Wallsend / Holmesville Heritage Area Plan.

These draft plans were publicly exhibited from 20 June 2016 to 18 July 2016. One internal submission was received from Council’s sustainability department. No external submissions were received. No changes are proposed to either plan except to update the description of land to which the LEP amendment relates, reflecting subdivision that has occurred since the draft plan was prepared.

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| **Recommendation:**  Council:   1. Adopts the draft amendment to LMLEP 2014 to extend the West Wallsend Heritage Conservation Area (Attachment 1), and requests the Department of Planning and Environment to finalise the Plan. 2. Adopts the amended West Wallsend / Holmesville Heritage Area Plan (Attachment 2) and updates LMDCP 2014 accordingly. 3. Provides public notice of its decision in accordance with statutory requirements. |

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Background:

The Appletree Grove Estate, adjacent to West Wallsend, was approved by the Hunter and Central Coast Joint Regional Planning Panel (JRPP) in 2012. The JRPP placed a condition of consent on the subdivision that required new dwellings within the estate to comply with the Heritage and Urban Design Guidelines prepared by consultants Roberts Day. Ordinarily, the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP), would permit dwellings as “Complying Development” provisions without regard to Councils Development Control Plans or covenants that require compliance with specific development controls, such as the Heritage and Urban Design Guidelines.

To overcome this inconsistency, a temporary local exclusion from complying development for the Appletree Grove Estate has been in effect since August 2013, meaning that all new dwellings within the estate have required development consent. This has meant the provisions of the Heritage and Urban Design Guidelines and LMDCP 2014 have applied to new dwellings.

Heritage Conservation Areas are automatically excluded from the Complying Development provisions of the *Codes SEPP.* The proposal to extend the existing West Wallsend Heritage Conservation Areas, to take in all stages of the Appletree Grove Estate, will mean that the estate is excluded from the application of the General Housing Code and Complying Development, while ever it continues in its current form. This will maintain the enforceability and relevance of controls in LMDCP 2014.

A Heritage Background Study for West Wallsend and Holmesville was completed in April 2015. While the study specifically recommended Stages 1, 9, and part of Stage 2 of the Appletree Grove Estate should be included within the West Wallsend Heritage Conservation Area, Council’s Heritage Planner was of the opinion that all stages of the subdivision should be included. Further detail on this matter is provided in report 15STRAT002 to the City Strategy Committee on 9 February 2015.

The provisions from the Heritage and Urban Design Guidelines are being included in the West Wallsend / Holmesville Heritage Area Plan to make it easier for proponents and landowners to understand what planning controls apply to development at Appletree Grove Estate, by having all relevant controls in one document.

Proposal:

It is proposed that Council adopt:

1. The planning proposal to expand the West Wallsend Heritage Conservation Area within LMLEP 2014, included at Attachment 1, and
2. The amended West Wallsend / Holmesville Heritage Area Plan included at Attachment 2. The area plan now includes specific controls for the Appletree Grove Estate, based on the Heritage and Urban Design Guidelines prepared in 2012.

Consultation:

Council’s strategic planners have consulted with staff from Council’s Development Assessment and Compliance department, in particular the building surveyors responsible for assessing dwelling applications at West Wallsend. Council wrote to all landowners within the Appletree Grove Estate to advise them of the public exhibition of the draft amendments to LMLEP 2014 and LMDCP 2014. Council also advised the developer of the Appletree Grove Estate of the exhibition. The developer, Roche Group, considered the draft plans and responded to say:

*A submission is not necessary as the DCP is a very good translation of the Heritage and Urban Design Guidelines prepared by Roberts Day.*

*We worked fairly closely with Council back in 2015 on the draft and the exhibited document is generally consistent with that work.*

The only submission received in response to exhibition of the draft plans was from Council’s Sustainability department, who identified the need to update property descriptions within the Planning Proposal.

Implications:

Policy Implications:

Adoption of the planning proposal to expand the West Wallsend Heritage Conservation Area will ensure that new dwellings and other development (apart from exempt development), within all stages of the Appletree Grove Estate, will continue to require a Development Application that considers compliance with relevant covenants and LMDCP 2014.

Adoption of the amended West Wallsend / Holmesville Heritage Area Plan and its inclusion in Lake Macquarie DCP 2014 will ensure that development controls prepared specifically for the Appletree Grove Estate, are embedded within Council’s planning policy document. It will be a matter for consideration under section 79C of the *EP&A Act 1979* during assessment of development applications made for the subject land.

Environmental Implications:

The proposed amendments to LMLEP 2014 and LMDCP 2014 will ensure development within the subject area has due consideration to environmental impacts, including residential amenity and visual impact.

Social Implications:

The proposed amendments to LMLEP 2014 and LMDCP 2014 will help to ensure development within the subject area respects the unique heritage values of West Wallsend.

Infrastructure Asset Implications:

The proposed amendments to LMLEP 2014 and LMDCP 2014 will have no direct implications for Council’s infrastructure assets.

Financial Implications:

There are no direct financial implications associated with adopting the proposed amendments to LMLEP 2014 and LMDCP 2014.

Risk and Insurance Implications:

There are no direct risk or insurance implications associated with adopting the proposed amendments to LMLEP 2014 and LMDCP 2014. The preparation of local environmental plan and development control plan amendments are a regular Council activity governed by the provisions of the *EP&A Act 1979* and *Environmental Planning and Assessment Regulation 2000.* The level of risk attached to this activity will be minimised through following the process as established by the *EP&A Act 1979* and *Environmental Planning and Assessment Regulation 2000,* as well as Council procedures.

Options:

The following options are available to Council:

1. Adopt the proposed amendments to LMLEP 2014 and LMDCP 2014 as shown in Attachments 1 and 2. This is the recommended option.
2. Request changes to the proposed amendment to LMLEP 2014 and/or the proposed amendment to LMDCP 2014 prior to adoption.

Conclusion:

The planning proposal to amend the West Wallsend Heritage Conservation Area in LMLEP2014, and the draft amendment to the West Wallsend / Holmesville Heritage Area Plan in LMDCP 2014, were prepared in consultation with relevant Council staff and the developer of the Appletree Grove subdivision. The draft plans were publicly exhibited and affected landowners notified. No public submissions were received.

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Manager - Integrated Planning - Sharon Pope

Attachments:

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| **1.** | Planning Proposal - Extension of West Wallsend Heritage Conservation Area - Post exhibition version |  | D07981231 |
| **2.** | DCP 2014 - Revision XX - Part 11 - Heritage Area Plans - West Wallsend-Holmesville - Post Exhibition Draft |  | D07981235 |