

Planning Services

Plan Finalisation Report

Local Government Area: Newcastle

File Number: IRF18/5970

1. NAME OF DRAFT LEP

Newcastle Local Environmental Plan 2012 Amendment No.37 (draft LEP).

2. SITE DESCRIPTION

The draft LEP consists of three separate components (a planning proposal and two section 3.22 expedited amendment requests) and so applies to three separate sites.

The planning proposal (PP_2018_NEWCA_002_00) applies to land at Glebe Road Federation Cottages Heritage Conservation Area 53 to 75 Glebe Road and 4 Watkins Street, The Junction.

The section 3.22 request for LEP map FSR_004G (PP_2018_NEWCA_013_00) relates to numerous parcels of land in the Newcastle City Centre West End.

The section 3.22 request for LEP map HOB_004K (PP_2018_NEWCA_014_00) relates to several parcels of land in the Newcastle City Centre East End.

3. PURPOSE OF PLAN

The draft LEP seeks to do the following:

PP_2018_NEWCA_002_00 (Glebe Road, The Junction)

- protect a group of Federation cottages by mapping and listing in Schedule 5, Part 2 the Glebe Road Federation Cottages Heritage Conservation Area;
- remove the mapped height of building control (i.e. no height of building control would apply); and
- remove the mapped floor space ratio control (i.e. no floor space ratio control would apply).

PP_2018_NEWCA_013_00 (various sites, Newcastle City Centre West End)

- correct an error due to LEP Amendment 28 by reducing the land mapped as being subject to LEP clause 7.10 "Floor space ratio for certain development in Area A".

PP_2018_NEWCA_014_00 (two sites, Newcastle City Centre East End)

- reduces the mapped height of building control from S = 24 m (above ground) to RL2 = 20 m and RL2 = 24 m for two sites.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Newcastle State Electorate. Mr Tim Crakanthorp MP is the State Member for Newcastle.

The site falls within the Newcastle Federal Electorate. Ms Sharon Claydon MP is the Federal Member for Newcastle

To the regional planning team's knowledge, neither MP has made any written representations regarding the proposed changes.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no known donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION

PP 2018 NEWCA 002 00 (Glebe Road, The Junction)

The Gateway determination issued on 27 April 2018 (**Attachment C**) determined that the proposal should proceed subject to conditions.

The Gateway determination has not been altered.

The proposal is due for finalisation by 5 December 2018.

PP 2018 NEWCA 013 00 (Newcastle City Centre West End) and

PP 2018 NEWCA 014 00 (Newcastle City Centre East End)

As these requests were made by City of Newcastle (Council) under section 3.22 of the *Environmental Planning and Assessment Act 1979* they are not considered to be planning proposals. Therefore, Gateway determinations have not been issued for these changes.

6. PUBLIC EXHIBITION

PP 2018 NEWCA 002 00 (Glebe Road)

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 14 May 2018 to 12 June 2018.

Four submissions received from community members, three supportive and one objecting.

The objection contended that alterations to the Glebe Road frontages of the cottages made them unsuitable for inclusion in a conservation area.

While Council acknowledges that this has occurred in some instances, Council disagreed that the modifications were sufficient to undermine the overall heritage value. Council highlighted the findings of the heritage study, which noted that 11 of the 13 houses in the area were identified as contributing to the heritage values of the precinct and that the area should be protected. No changes were made to the proposal in response.

PP 2018 NEWCA 013 00 (Newcastle City Centre West End) and

PP 2018 NEWCA 014 00 (Newcastle City Centre East End)

As section 3.22 requests, public exhibition is not required. No consultation was undertaken.

7. ADVICE FROM PUBLIC AUTHORITIES

PP 2018 NEWCA 002 00 (Glebe Road)

Council was not required to consult any public authority under the Gateway determination.

PP 2018 NEWCA 013 00 (Newcastle City Centre West End) and

PP 2018 NEWCA 014 00 (Newcastle City Centre East End)

As section 3.22 requests, agency consultation is not required. No consultation was undertaken.

8. ASSESSMENT

PP 2018 NEWCA 002 00 (Glebe Road)

The planning proposal seeks to give effect to the Glebe Road Federation Cottages Heritage Conservation Area on the LEP map and in Schedule 5 Part 2.

It is recommended that this component of the draft plan be made because:

- The draft LEP is underpinned by a specialist heritage study of the buildings and area which recommends that this area be protected.
- The draft LEP was generally supported at exhibition by those who made submissions
- Heritage conservation controls may facilitate future works and the reversal of the minor inappropriate alterations to the cottages such that they better converge stylistically around Federation period built-form, design, materials and detailing.

State, regional and district plans

The Hunter Regional Plan includes the following Direction relevant to this proposal:

19: Identify and protect the region's heritage

Identification of these houses and their protection in a Conservation Area is considered appropriate because Council has undertaken a detailed heritage study which recognises the valuable contribution that this area makes to the heritage of Newcastle LGA.

The Greater Newcastle Metropolitan Plan (GNMP) includes the following Strategy relevant to this proposal:

10: Create better buildings and great places

16: Prioritise the delivery of infill housing opportunities within existing urban areas

The GNMP recognises the importance of Greater Newcastle's heritage as a unique and attractive element of the city which can be used to enhance its emergence as a metropolitan city with global appeal.

Strategy 10 seeks to create better buildings and great places and acknowledges that Greater Newcastle's heritage is fundamental to its cultural economy. Further, that regeneration of heritage assets through adaptive re-use will deliver unique and exciting places, along with opportunities for investment and jobs.

The planning proposal is consistent with this Strategy outcome because it seeks to protect the heritage values of a local place.

Strategy 16 seeks to facilitate infill and urban renewal. This site is included in a renewal corridor identified in the GNMP. For land in these areas, Council is to undertake an investigation of renewal potential and ensure proposals do not prevent future redevelopment opportunities.

Council is yet to commence this investigation and so a specific assessment for this site has not been undertaken. However, given the heritage values of the site, that the heritage assessment does not identify any further potential conservation areas in the renewal corridor, the size of the corridor, and timing of the investigation, the proposal may proceed independent of this analysis.

PP 2018 NEWCA 013 00 (various sites, Newcastle City Centre West End)

The section 3.22 request seeks to amend the Newcastle LEP 2012 by changing the floor space ratio map so that it identifies the correct areas that are subject to clause 7.10 "Floor space ratio for certain development in Area A" of the Newcastle LEP 2012.

Newcastle LEP 2012 (Amendment No 28) made changes to the floor space ratio map FSR_004G when it was notified on 17 April 2018. In doing so, it changed the 'Area' identification on the map such that it reverted to the Areas in place prior to State Environmental Planning Policy Amendment (Newcastle City Centre) 2014 which occurred in July 2014. Refer to Figure 1. Changing the Area identification on the map was an unintended error in LEP Amendment 28 and this section 3.22 request seeks to correct this error. The land that should be subject to clause 7.10 is shown in Figure 2.

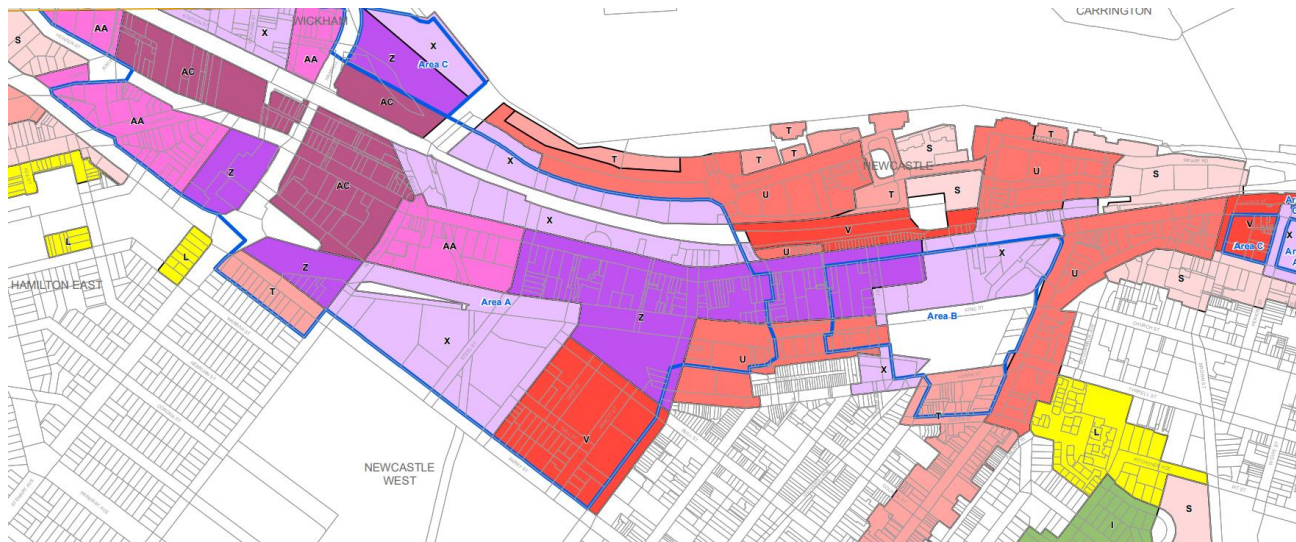


Figure 1: Blue line incorrectly identifying land subject to clause 7.10 (excerpt from existing FSR_004G)

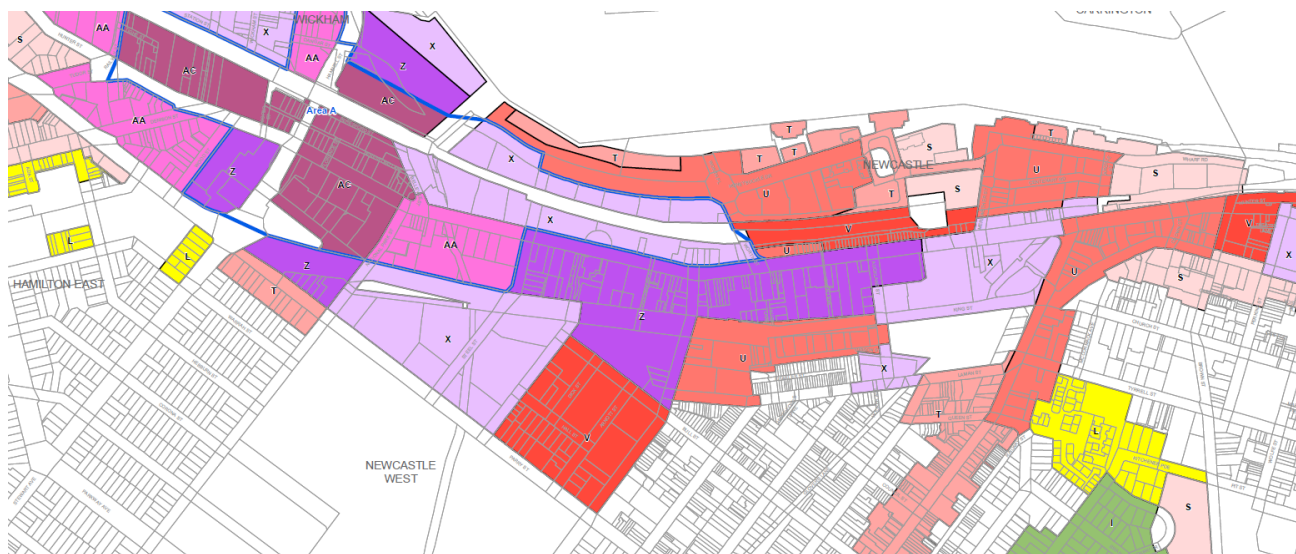


Figure 2: Blue line correctly identifying land subject to clause 7.10 (excerpt from proposed FSR_004G)

As LEP Amendment 28 contained an error, it is considered that the use of section 3.22(1)(a) is appropriate as it corrects an obvious error in the principal instrument following LEP Amendment 28.

As a minor change to progress as a section 3.22 amendment, consistency with State, regional and district plans are not relevant.

PP_2018_NEWCA_014_00 (two sites, Newcastle City Centre East End)

The section 3.22 request seeks to amend the Newcastle LEP 2012 by changing the height of buildings map HOB_004K to correct errors introduced by Newcastle LEP 2012 (Amendment No 32).

Amendment 32 made changes to several zone, floor space ratio and height of buildings maps in the Newcastle City Centre to apply new planning controls to the former rail corridor and Newcastle Station site. This included making changes to HOB_004K. Amendment 32 was notified on 17 April 2018.

Amendment 32 also made changes in error. While errors relating to the floor space ratio map were corrected by an erratum on 9 July 2018, errors in the height of building map HOB_004K were overlooked. Two sites on HOB_004K had their RL heights of 20 m and 24 m changed to "S" (being equal to 24 m above ground), thereby undoing some of the changes made by a previous LEP amendment (Amendment 26, notified 23 March 2018). Figure 3 shows the correct heights prior to Amendment 32, while Figure 4 show the errors introduced by Amendment 32 for the two sites.

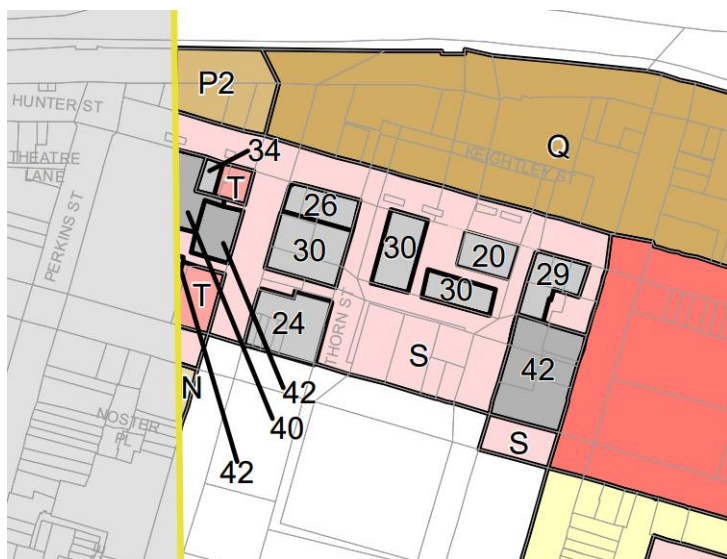


Figure 3: Excerpt from HOB_004K following Amendment 26 (correct heights)

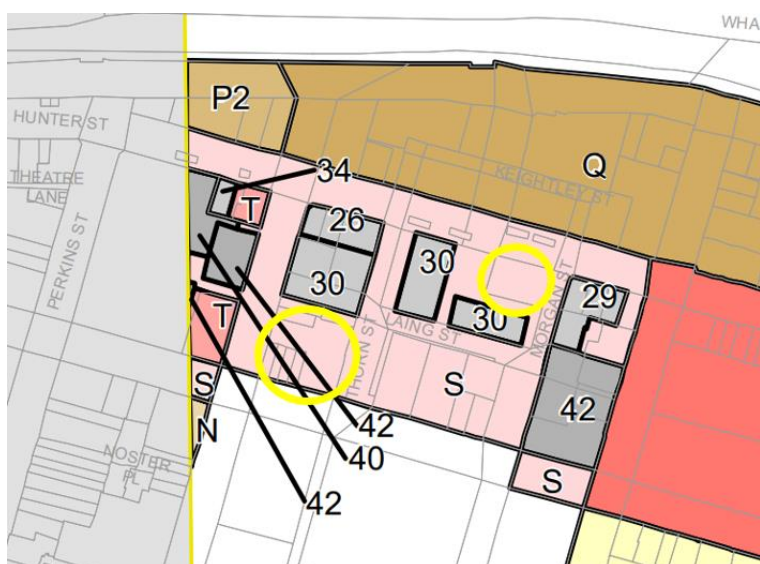


Figure 4: Excerpt from HOB_004K following Amendment 32 (incorrect heights circled)

As LEP Amendment 32 contained an error, it is considered that the use of section 3.22(1)(a) is appropriate as it corrects an obvious error in the principal instrument due to LEP Amendment 32.

As a minor change to progress as a section 3.22 amendment, consistency with State, regional and district plans are not relevant.

9. MAPPING

Amendments to Heritage, HOB and FSR map sheets are correct, having been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

10. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment E**). Council confirmed on 23 October 2018 that it supported the draft and that the plan should be made (**Attachment F**).

11. PARLIAMENTARY COUNSEL OPINION

On 30 October 2018 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

12. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under Section 3.36(2)(a) of the Act because:

- The heritage component of the draft LEP is underpinned by a specialist heritage study of the buildings and area which recommends that this area be protected.
- The heritage component of the draft LEP was generally supported at exhibition by those who made submissions
- The heritage component of the draft LEP may facilitate future works and the reversal of the minor inappropriate alterations to the cottages such that they better converge stylistically around Federation period built-form, design, materials and detailing
- The section 3.22 components correct errors in the LEP maps introduced by LEP Amendments 28 and 32 consistent with section 3.22(1)(a) being matters that correct an obvious error in the principal instrument.



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30.10.18



1.11.18

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