

## Planning Services

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### Plan Finalisation Report

**Local Government Area:** Newcastle

#### 1. NAME OF DRAFT LEP

Newcastle Local Environmental Plan 2012 Amendment No. 36 (draft LEP).

#### 2. SITE DESCRIPTION

The planning proposal applies to land at 3 Murray Dwyer Circuit, Mayfield West in relation to the amendment of a property description for I692 in Schedule 5 Environmental Heritage and deletion of clause 7.7, which applies to residential flat buildings in all land zoned B3 Commercial Core under the Newcastle LEP 2012.

#### 3. PURPOSE OF PLAN

The draft LEP under clause 3.22 expedited amendments of the EP&A Act seeks to:

1. change the address and property description in Schedule 5 Environmental Heritage for the Remnant Gardens local heritage item (Item I692) at 3 Murray Dwyer Circuit, Mayfield West following subdivision. PP\_2018\_NEWCA\_008\_00); and
2. delete clause 7.7 "Residential flat buildings in Zone B3 Commercial Core" (PP\_2018\_NEWCA\_009\_00).

The property description of heritage item I692 is incorrectly described in Schedule 5 Environmental Heritage, as the subject land has since been subdivided. This amendment is administrative only and there are no impacts on the heritage item.

Council requested that clause 7.7 be deleted to correct an error that was introduced when the SEPP Amendment (Newcastle City Centre) 2014 amended the Newcastle LEP 2012. The purpose of the SEPP amendment was to prohibit residential flat buildings in the B3 zone and to delete clause 7.7 of the LEP. An unintended drafting error meant that only the prohibition proceeded, leaving the clause 7.7 in the LEP.

#### STATE ELECTORATE AND LOCAL MEMBER

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

The site falls within the Newcastle Federal Electorate. 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 proposal.

<b>NSW Government Lobbyist Code of Conduct:</b> There have been no meetings or communications with registered lobbyists with respect to this proposal
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<b>NSW Government reportable political donation:</b> There are no donations or gifts to disclose and a political donation disclosure is not required.
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#### 4. GATEWAY DETERMINATION

The two section 3.22 LEP amendments do not require a Gateway determination to amend the Newcastle LEP 2012.

#### 5. ADVICE FROM PUBLIC AUTHORITIES

No community or agency consultation was required due to the minor nature of the proposal under section 3.22 of the EP&A Act.

#### 6. POST-EXHIBITION CHANGES

The proposal was not publicly exhibited due to the minor nature of the proposal. The final amendment is consistent with the section 3.22 application.

#### 7. ASSESSMENT

The two section 3.22 LEP amendments are suitable to proceed and be made under section 3.22(1)(c) of the Act given the intent of the amendments are to make minor corrections to the Newcastle LEP 2012 and there are no known significant adverse impacts on the environment and surrounding land.

##### State environmental planning policies

The proposed removal of clause 7.7 is required as a consequence of SEPP Amendment (Newcastle City Centre) 2014. The SEPP amendment prohibited residential flat buildings in the B3 zone resulting in clause 7.7 of the Newcastle LEP 2012 being obsolete.

#### 8. MAPPING

No Mapping is required for this amendment.

#### 9. CONSULTATION WITH COUNCIL

Council was consulted in an email sent on the 5 September 2018 on the terms of the draft instrument under clause 3.36(1) of the Environmental Planning and Assessment Act 1979 (**Attachment 1**). Council confirmed on 6 September 2018 that it was satisfied with the draft LEP, subject to some minor corrections and that the plan should be made (**Attachment 2**).

#### 10. PARLIAMENTARY COUNSEL OPINION

On 28 September 2018 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment C**.

#### 11. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.22(1) of the Act because:

- The proposed LEP amendment (Amendment 36) complies with section 3.22(1)(c) in that the amendment will not have any known significant adverse impacts on the environment and surrounding land, and

- Parliamentary Counsel on 28 September 2018 provided the final LEP and Opinion that the LEP could be made **(Attachment C)**.



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