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Our ref: PP_2013_NEWCA_007_00 (13/06905)

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

Dear Mr Goulthorp,

Planning proposal to amend Newcastle Local Environmental Plan 2012

I am writing in response to your 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 rezone land at Mitchell Street, Lingard Street and Merewether Street, Merewether from IN2 Light Industrial to B5 Business Development and apply a maximum floor space ratio of 0.9:1 and a maximum height of buildings of 10m to the subject land.

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

While Council's proposal to rezone the subject land at Merewether to B5 Business Development is supported, it is noted that the proposed zoning continues to prohibit the intended land use. I understand that the planning proposal relies on health service facilities being permitted in the B5 zone under the provisions of State Environmental Planning Policy (SEPP) Infrastructure. However, to ensure that a clear and consistent approach with regard to the permissibility of health service facilities is achieved, the land use is to be made permissibility within the B5 zone of Newcastle Local Environmental Plan (LEP) 2012. Consequently, the planning proposal is to be amended to reflect the above mentioned approach. I understand Council supports this position.

I have also agreed the planning proposal's inconsistency with S117 Direction 4.3 Flood Prone Land is of minor significance. No further approval is required in relation to this Direction.

Council is to ensure that land owners and occupiers of the subject land are consulted with directly on the timeframes and public exhibition details of the planning proposal, and advised that health service facilities will be made permissible in the B5 zone of Newcastle LEP 2012.

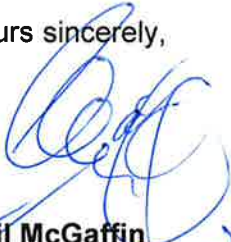
The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation, however has asked not to use its delegation for the making of this plan. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan because the proposal is considered to be of local significance. Council should contact the regional office of the department should it require assistance in relation to the exercise of its delegation.

The amending LEP is to be finalised within 12 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 to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

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 queries in regard to this matter, please contact Ken Phelan of the regional office of the department on 02 4904 2700.

Yours sincerely,



Neil McGaffin 28.5.13
Executive Director
Rural and Regional Planning

Gateway Determination

Planning proposal (Department Ref: PP_2013_NEWCA_007_00): to rezone land at Merewether for business purposes and amend the development standards applying to the land.

I, the Executive Director, Rural and Regional Planning at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Newcastle Local Environmental Plan (LEP) 2012 to rezone land at Mitchell Street, Lingard Street and Merewether Street, Merewether from IN2 Light Industrial to B5 Business Development and apply a maximum floor space ratio of 0.9:1 and a maximum height of buildings of 10m to the subject land should proceed subject to the following conditions:

1. Council's proposal to rezone the subject land at Merewether to B5 Business Development is supported. However, the permissibility of health service facilities under Newcastle LEP 2012 is to be made consistent with the uses permissibility under State Environmental Planning Policy (SEPP) Infrastructure. Consequently, the planning proposal is to be amended to permit health service facilities within the B5 zone of Newcastle LEP 2012.
2. Council is to ensure that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. If required, Council is to prepare an initial site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
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 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)*.
4. Consultation is required with the Mine Subsidence Board as per the requirements of S117 Direction 4.2 Mine Subsidence and Unstable Land. No other consultation is required under section 56(2)(d) of the EP&A Act. The Board 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. If necessary, the planning proposal is to be updated to take into consideration any comments made by the Board, prior to undertaking public exhibition.
5. 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).



Planning & Infrastructure

6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 28th day of May 2013.

Neil McGaffin
Executive Director
Rural and Regional Planning
Department of Planning and Infrastructure

Delegate of the Minister for Planning and Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Newcastle City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_NEWCA_007_00	Planning proposal to rezone land at Mitchell Street, Lingard Street and Merewether Street, Merewether from IN2 Light Industrial to B5 Business Development and apply a maximum floor space ratio of 0.9:1 and a maximum height of buildings of 10m to the subject land.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 28 May 2013

Neil McGaffin
Executive Director
Rural and Regional Planning
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_NEWCA_007_00
Date Sent to Department under s56	April 2013
Date considered at LEP Review Panel	16/05/2013
Gateway determination date	28/05/2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: