

Briefing: Executive Director
FOR APPROVAL by 17 February 2019

Finalisation of Dungog Local Environmental Plan 2014 (Amendment No 5)

Purpose: To recommend that the Executive Director, Regions, as delegate of the Minister, make Dungog Local Environmental Plan 2014 (Amendment No 5) (draft LEP).

Analysis: The draft LEP seeks to reclassify land at 115 Prince Street, Clarence Town (Lot 20 DP 729796). All conditions under the Gateway determination and matters raised during consultation have been adequately addressed. The draft LEP may now be made without variation.



Deadline: The draft LEP is to be made by 17 February 2019, being 120 days since Council requested finalisation of the matter.

Recommendation

That the Executive Director, Regions, as delegate of the Minister:

1. **note** the plan finalisation report (**Attachment A**), the planning proposal (**Attachment B**), the Gateway determination (**Attachment C**) and latest Alteration of Gateway determination for a timeframe extension (**Attachment D**);
2. **note** Parliamentary Counsel's Opinion that the draft LEP can legally be made and no changes have been made to the draft LEP since obtaining this Opinion (**Attachment PC**);
3. **make** the draft LEP under section 3.36(2)(a) of the *Environmental Planning and Assessment Act 1979* (the Act) by signing the instrument (**Attachment LEP**).
4. **sign** the letter to Dungog Shire Council (**Attachment Council**) advising of this decision.

Approval

<p>Monica Gibson Director Regions, Hunter</p> <p></p> <p>Date: 20/12/2018</p>	<p>Stephen Murray Executive Director, Regions</p> <p> -Noted</p> <p>Approved Not Approved</p> <p>Date: 14 January 2019</p>
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Key reasons

The planning proposal

The planning proposal seeks to reclassify land at 115 Prince Street, Clarence Town (Lot 20 DP 729796). Reclassification of the site to operational land will enable Council to transfer the land to the Clarence Town Progress Association (CTPA) in accordance with its Council's resolution. CTPA will be responsible for any future maintenance costs of the former Clarence Town Court House, which is a State heritage item.

The Gateway determination issued on 4 November 2016 (**Attachment C**) determined that the proposal should proceed subject to conditions. The Gateway determination has been altered several times to extend the completion timeframe. The most recent alteration issued on 17 December 2018 requires the planning proposal to be finalised before 4 February 2019.

The Plan Finalisation Report (**Attachment A**) confirms that the planning proposal is consistent with the Gateway determination and all conditions under the Gateway determination and matters raised during consultation have been adequately addressed. The Plan Finalisation Report recommends that the draft LEP be made.

Agency consultation

Council was not required to consult with any public authority as per the Gateway determination.

Council prepared a conservation management plan (CMP) (**Attachment H**) for the former Clarence Town Court House, after it was recommended by the Heritage Council. The CMP will assist the owners, consent authorities and occupants to protect as well as manage its State heritage significance and inform future decisions.

Public exhibition and consultation

The planning proposal was exhibited from 17 November 2016 to 20 January 2017 in accordance with the Gateway determination. Three submissions were received from the public noting concern about the future of the museum, the court house no longer

being in community ownership, disposing of a Council asset and potential future development impacts.

Public Hearing

A public hearing was held after the exhibition period on 25 May 2017, at which 47 people attended. Similar issues were raised at the public hearing to those recorded in submissions. The chairperson found that these concerns did not relate to the reclassification of the land but related to future use and heritage protection. The report notes that regardless of the ownership of the site, heritage conservation provisions under Dungog LEP 2014 and its listing on the State Heritage Register would remain.

Council advises that a caveat will be placed on the title to ensure the ongoing operation of the museum alongside other commercial uses consistent with the CMP. Council has considered the submissions received and adequately addressed the issues raised.

Post-exhibition changes

There have been no amendments made to the planning proposal following public exhibition.

Assessment

The Department supports the finalisation of Dungog LEP 2014 Amendment No 5. It is recommended that the LEP is made by the Minister's delegate for the following reasons:

- Reclassification of the site to operation land will allow transfer to the CTPA as per Council's resolution,
- the conditions of Gateway determination have been satisfied,
- the proposal does not undermine the Hunter Regional Plan 2036, and
- ongoing protection of heritage values remain unchanged in the Dungog LEP and will be managed through the CMP.

Section 9.1 directions

The planning proposal is consistent with the relevant section 9.1 Directions.

Finalising the proposal

Council has satisfied all conditions of the Gateway determination (**Attachment C**).

There are no outstanding objections from the relevant public authorities.

To the Department's knowledge there have been no meetings with lobbyists.

Under section 3.36(1) of the Act, Council was consulted on the terms of the draft instrument (**Attachment E**). Council confirmed acceptance of the draft LEP on 26 October 2018 (**Attachment F**).

The PC Opinion was issued on 25 October 2018.

Attachments

Attachment	Title
A	Plan Finalisation report
B	Planning proposal
C	Gateway determination
D	Gateway alteration - Dec 2018
E	Section 3.36(1) consultation with Council
F	Council comments on draft LEP
PC	Parliamentary Counsel's Opinion
LEP	Draft LEP
Council	Letter to council advising of the decision
G	Submission Summary Table
H	Conservation Management Plan
I	Council's response to interests on the land
J	Public Hearing Report