

Planning Services

EF19/16966

Plan finalisation report

Local government area: Newcastle

1. NAME OF DRAFT LEP

Newcastle Local Environmental Plan 2012 (Amendment No 42)

2. SITE DESCRIPTION

The section 3.22 request applies to 430 Hunter Street, Newcastle (Lot 7 DP 1247375) and is the site known as the Former Civic Railway Station.

3. PURPOSE OF PLAN

The section 3.22 of the *Environmental Planning and Assessment Act 1979* (the Act) request seeks to amend the Newcastle LEP 2012 by adding a new item to Schedule 5 - Environmental Heritage.

The item is described by the City of Newcastle Council (Council) as being the 'Former Civic Railway Station'. Council advises that the item has local heritage significance.

As the amendment would introduce a new item into LEP 2012 heritage schedule, the Heritage LEP map (HER_004G) would also need to be amended.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Newcastle state electorate. Mr Tim Crakanthorp MP is the State Member. The site falls within the Newcastle federal electorate. Ms Sharon Claydon MP is the Federal Member. To the regional planning team's knowledge, neither MP has made any written representations regarding the proposal.

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 donations or gifts to disclose and a political donations disclosure is not required.

5. GATEWAY DETERMINATION

Council requested the LEP amendment occur as an expedited LEP amendment under section 3.22(1)(c) (**Attachment A – Section 3.22 Request**). The amendment seeks to insert add the Former Civic Railway Station as a local heritage item to Schedule 5 - Environmental Heritage.

The amendment is considered minor as the item is already listed as an item of local significance under section 170 of the *Heritage Act 1977* (s.170).

As the amendment is occurring as an expedited LEP amendment under section 3.22, no Gateway determination has been issued.

6. PUBLIC EXHIBITION

As the amendment is occurring as an expedited LEP amendment under section 3.22, no public exhibition has occurred.

7. ADVICE FROM PUBLIC AUTHORITIES

As the amendment is occurring as an expedited LEP amendment under section 3.22, no agency consultation has occurred.

8. POST-EXHIBITION CHANGES

No changes have been made to the proposal.

9. ASSESSMENT

The 'Former Civic Railway Station' is currently owned by the Hunter and Central Coast Development Corporation (HCCDC) and will be transferred to Council when the approved alterations are completed in the last quarter of 2019. Works are currently underway to allow for the adaptive re-use of the site.

As a result, in the change of ownership from a state agency to Council, the site will no longer be able to be listed on the s.170 register and would no longer be afforded heritage protection. The proposed LEP amendment aims to ensure that the item remains a protected as a heritage item.

As the item is listed on the s.170 register an item of local significance, amending the LEP to identify the item as a heritage item of local significance does not change its status and is supported. Council advises that after the alterations are complete, the former railway station will still be culturally significant on a number of levels and is suitable to be listed as a local heritage item in the LEP. Council has prepared a draft State Heritage Inventory for the proposed site to support this recommendation.

The use of section 3.22 of the Act to facilitate this matter is also supported as a matter under section 3.22(1)(c) (**See Attachment B – Section 3.22 submission**). An expedited matter may be made if it;

(c) deals with matters that the Minister considers do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land.

Council advises that the making of this instrument will not have any significant adverse impact on the environment or adjoining land. The LEP amendment will transfer the site from one form of heritage protection to another and the section 3.22 application ensures that the site's heritage values will continue to be protected.

Given this and noting the site's local heritage value would not change and that no additional land or new components are proposed to be included in the listing, it is considered that section 3.22(1)(c) is appropriate.

Former Civic Railway Station will become item number I703 under Schedule 5 of Newcastle LEP 2014. The relevant heritage map is to also be updated.

Section 9.1 Directions

As the amendment is occurring as an expedited LEP amendment under section 3.22, no consideration of section 9.1 Directions is required.

State environmental planning policies

As the amendment is occurring as an expedited LEP amendment under section 3.22, no consideration of State policies is required.

State and regional plans

As the amendment is occurring as an expedited LEP amendment under section 3.22, no state or regional plans are relevant.

10. MAPPING

The maps adopted by Newcastle Local Environmental Plan 2012 are amended or replaced, as the case requires, by the maps approved by the local plan-making authority on the making of this Plan.

The Heritage Map sheet HER_004G will be updated to reflect the item number change, accompanied by a new map cover sheet (**Attachment Map and MCS**).

11. 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*. Council confirmed on 19 August 2019 that it was happy with the draft and that the plan should be made (**Attachment C**).

12. PARLIAMENTARY COUNSEL OPINION

On 29 August 2019, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. CONCLUSION


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

- the heritage status of the 'Former Civic Railway Station' will not alter; and
- that heritage protection of the 'Former 'Civic Railway Station' should be retained.

14. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority:

1. **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**);
2. **note** the LEP maps (**Attachment Maps**), which have been approved by the Department's ePlanning Team and provided to Parliamentary Counsel;
3. **make** the draft LEP under section 3.36(2)(a) of the *Environmental Planning and Assessment Act 1979* by signing the instrument (**Attachment LEP**) and supporting map cover sheet (**Attachment MCS**); and
4. **sign** the letter to City of Newcastle (**Attachment Council**) advising of this decision.



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8/11/19

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Planning and Assessment

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Attachment	Title
A	Section 3.22 Request
B	Section 3.22 submission form
C	Section 3.36(1) consultation with Council
PC	Parliamentary Counsel's Opinion
LEP	Draft LEP
MCS	Map cover sheet
Map	Draft LEP Map
Council	Letter to City of Newcastle