

## Gateway Determination

**Planning proposal (Department Ref: PP-2023-2851):** *To introduce affordable housing contribution provisions into the Newcastle LEP 2012.*

I, the Director Hunter and Northern Region at the Department of Planning, Housing and Infrastructure, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979 (the Act)* that an amendment to the Newcastle Local Environmental Plan 2012 to introduce affordable housing contribution provisions should proceed subject to the following conditions.

The LEP should be completed within 12 months of this Gateway determination date.

### Gateway Conditions

1. The planning proposal is to be amended to update the draft Newcastle Affordable Housing Contributions Scheme (NAHCS) to clarify the following matters:
  - if the policy still applies where a development doesn't create an additional dwelling but proposes more than 200m<sup>2</sup> of residential floor space;
  - reference to the 'use of a bonus type scheme' needs to make clear that any affordable housing that is proposed for additional bonuses needs to be provided in addition to what is provided in the scheme;
  - the definition of Net Developable Area (NDA);
  - make clear that the inclusionary zoning rate applies to the whole of the LGA under the 200m<sup>2</sup>/additional dwelling conditions, and then where the conditions in Table 2 are met, those contribution requirements apply;
  - Table 3 should refer to minimum one dwelling to 10 dwellings;
  - the reference to unit cost rate;
  - that the affordable housing contribution remains accurate with current values and has accurately reflected all additional costs and the residual land value;
  - feasibility assessment of the inclusionary rate is to be finalised and included;
  - why there are no savings or credit for floor space that may exist in the identified areas;
  - simplifying the explanation that an inclusionary zoning affordable housing contribution rate for residential development applies if an additional dwelling (or potential dwelling) and more than 200m<sup>2</sup> residential GFA on the site results;
  - provide information on the approach used to establish the appropriate contribution rate for planning proposal land;
  - whether any sensitivity testing was carried out on the feasibility to ensure that the proposed rates will remain viable under different economic conditions;
  - if the feasibility assessment has taken into consideration any likely costs associated with land remediation, particularly on industrial lands proposed to be rezoned; and
  - whether scaling over time will be necessary for the inclusionary zoning rate.

2. Prior to agency and community consultation, the planning proposal is to be revised to address condition 1 and forwarded to the Department for review and approval.
3. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:
  - (a) the planning proposal is categorised as complex as described in the *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023) and must be made publicly available for a minimum of 30 working days; and
  - (b) the planning proposal 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 *Local Environmental Plan Making Guideline* (Department of Planning and Environment, August 2023).

The draft contributions plan for *Newcastle Affordable Housing Contributions Scheme* is to be exhibited at the same time and in the same way as the planning proposal (as far as practicable).

4. Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the Act:
  - Department of Communities and Justice – NSW Land and Housing Corporation
  - Department of Communities and Justice – Homes NSW
  - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 working days to comment on the proposal.

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the 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).

Dated 26 April 2024



**Jeremy Gray**  
**Director, Hunter and Northern Region**  
**Local Planning and Council Support**  
**Department of Planning, Housing and**  
**Infrastructure**  
**Delegate of the Minister for Planning and**  
**Public Spaces**