



Gateway determination report – PP-2023-2851

Introduction of Affordable Housing Contribution
Provisions into the Newcastle LEP 2012

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Acknowledgment of Country

The Department of Planning, Housing and Infrastructure acknowledges the Traditional Owners and Custodians of the land on which we live and work and pays respect to Elders past, present and future.

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Table 1 Reports and plans supporting the proposal

Relevant reports and plans
Draft Newcastle Affordable Housing Contributions Scheme December 2023
Newcastle AHCS Planning Proposal for Gateway Determination December 2023
Hunter Regional Plan 2041
DPHI Housing Policy Team Comments

1 Planning proposal

1.1 Overview

Table 2 Planning proposal details

LGA	LGA name
PPA	Newcastle Council
NAME	Introduction of Affordable Housing Contribution Provisions into the Newcastle LEP 2012 (0 homes, 0 jobs)
NUMBER	PP_2023-2851
LEP TO BE AMENDED	Newcastle LEP 2012
ADDRESS	LGA Wide
DESCRIPTION	N/A
RECEIVED	18/12/2023
FILE NO.	IRF24/115
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Objectives of planning proposal

The objectives of the planning proposal (**Attachment A**) are to:

- provide for the delivery of affordable housing through the planning system, recognising its role as social infrastructure;
- provide a transparent statutory framework for the levying of affordable housing contributions in Newcastle;
- contribute towards achieving Council and state government objectives in relation to affordable housing;
- implement viable affordable housing contribution rates with regard to development feasibility; and
- provide clarity to the community and development industry on City of Newcastle's expectations for affordable housing contributions.

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

1.3 Explanation of provisions

The proposed objectives will be achieved by amending *Newcastle Local Environmental Plan 2012* (Newcastle LEP). It is proposed to include two new clauses in NLEP 2012 and three maps to collect affordable housing contributions and give effect to the Newcastle AHCS.

Proposed clause 9.1 will apply to specific areas in Broadmeadow, Stockton North and the Western Corridor and will be supported by a new Affordable Housing Contributions Scheme Map for the sites as shown in Figures 2-4 below. The clause will apply an affordable housing contribution of between 3.30-5% to new residential and mixed-use development to the identified areas as specified under the AHCS (noting that development within Broadmeadow and North Stockton must also have a minimum floor space ratio before the clause applies).

Proposed clause 9.2 will apply to the entire LGA and will impose a 1% affordable housing contribution on new residential and mixed-use development as specified under the AHCS (but will not apply if development is required to make a contribution under proposed clause 9.1).

No rezoning of land or change in development standards will occur as part of this proposal.

The explanation of provisions is satisfactory.

1.4 Site description and surrounding area

The planning proposal relates to all land within the Newcastle Local Government Area (LGA), which is located within Greater Newcastle as shown in **Figure 1**.

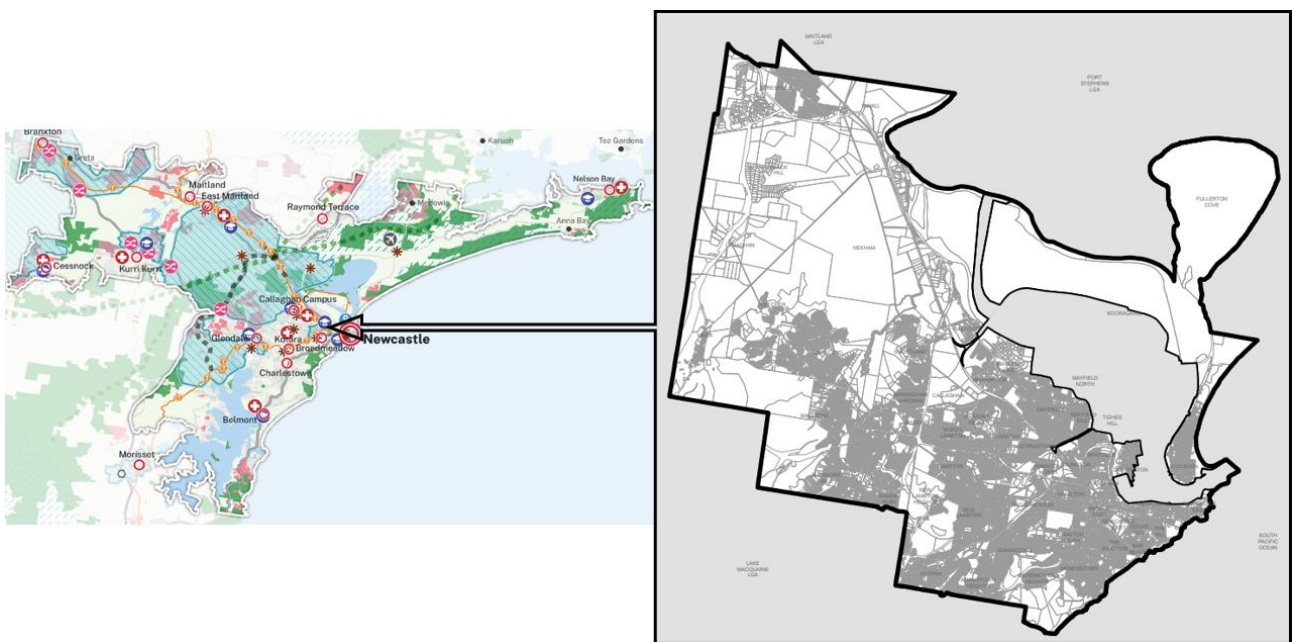


Figure 1 Subject site (source *Hunter Regional Plan 2041* and *Newcastle LEP 2014 Application Map*).

1.5 Mapping

The scheme applies across the Newcastle Local Government Area (LGA) and applies to all new residential and mixed-use development and applies a 1% affordable housing contribution to the entire LGA and a map is not required for this matter.

The planning proposal will include a new Affordable Housing Contributions Scheme Map into the Newcastle LEP 2012 for the identified areas under the AHCS at Broadmeadow, North Stockton

and the Western Corridor where a specific affordable housing contribution will apply under proposed clause 9.1 as shown in **Figures 2-4**.

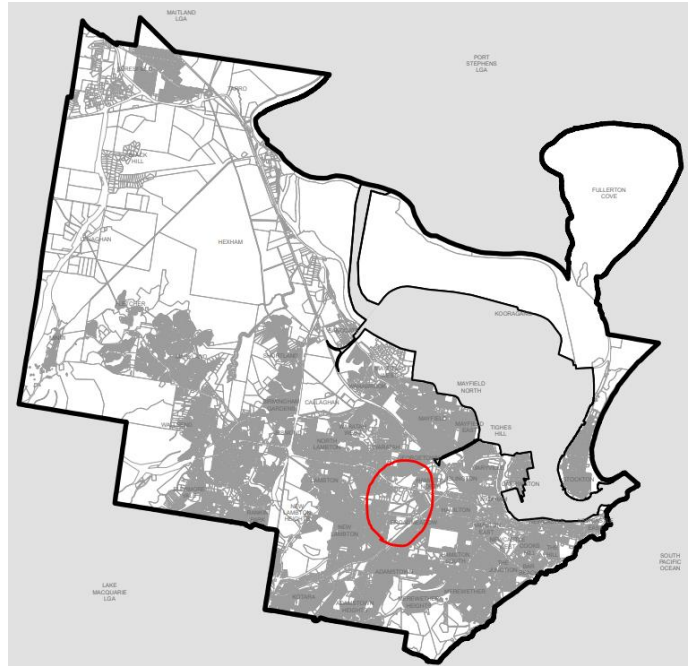
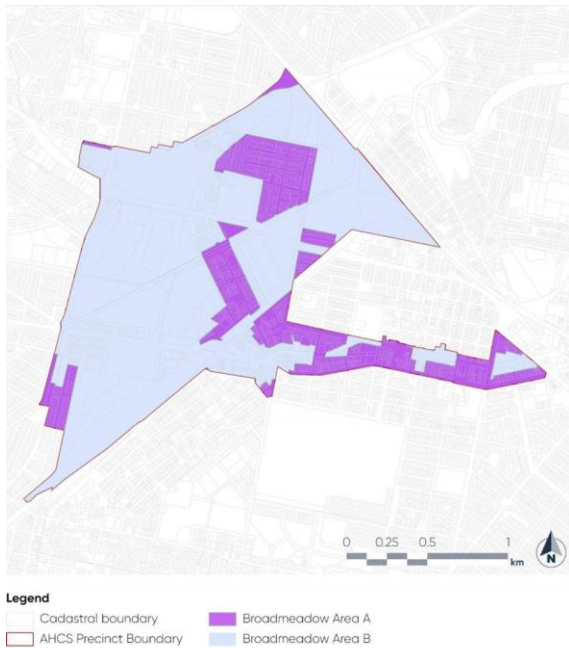


Figure 2 Broadmeadow Area A and B - Affordable Housing Contribution Scheme Area

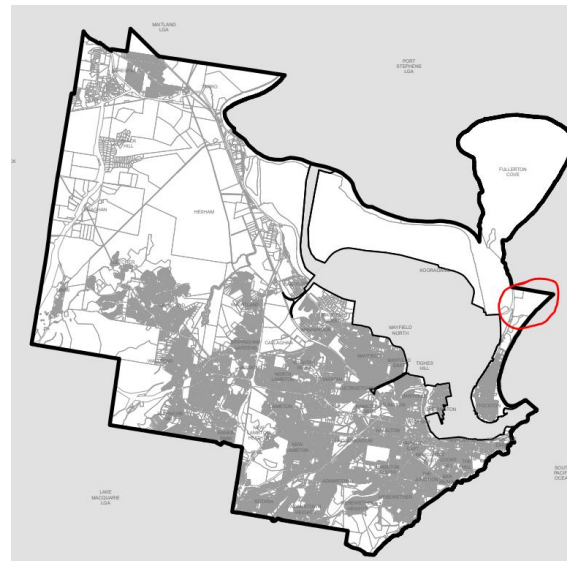
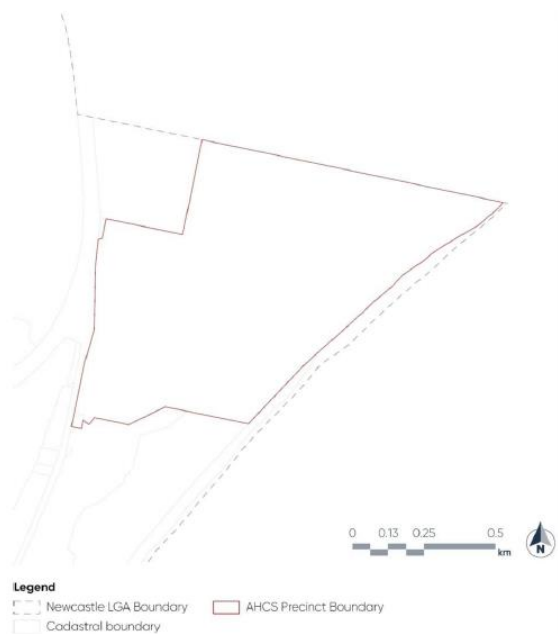


Figure 3 Stockton North Affordable Housing Contribution Scheme Area

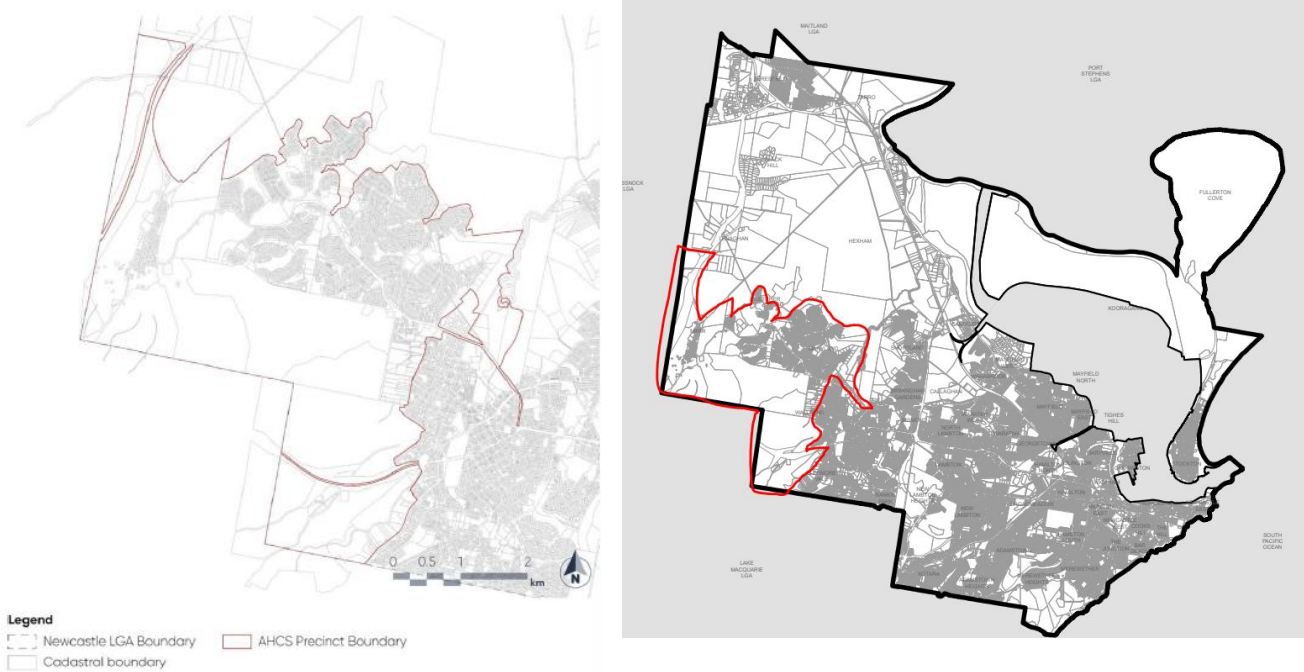


Figure 4 Western Corridor Affordable Housing Contribution Scheme Area

1.6 Background

The *Newcastle Affordable Housing Contributions Scheme* (NAHCS) has been developed in accordance with the requirements of Section 7.32(1)(c) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and *State Environmental Planning Policy (Housing) 2021* (SEPP Housing).

In March 2023 Newcastle Council referred the draft NAHCS to DPHI Housing Policy team who provided feedback on the scheme based on the *Guideline for Developing an Affordable Housing Contribution Scheme 2019* (AHCS Guideline). Newcastle Council made various changes to the NAHCS in consideration of the information provided.

Council resolved on 12 December 2023 to forward a planning proposal and draft NAHCS to the Department for a Gateway Determination.

Draft Newcastle Affordable Housing Scheme

The draft NAHCS had been prepared generally in accordance with the AHCS Guideline.

The proposed 1% inclusionary zoning rate that applies across the LGA is not however in accordance with the AHCS Guideline, the Department recently exhibited an Explanation of Intended Effect (EIE) to introduce additional flexibility to facilitate a broader range of schemes.

The EIE exhibition coincided with the Department's recent issuing of a Gateway determination to Waverly Council's planning proposal to introduce a 1% inclusionary rate on all new residential apartment development across the LGA. Therefore, although the draft NAHCS does not fully comply with the AHCS Guideline at this time, the Department is taking steps to allow an inclusionary zoning rate to be included in a scheme and the Housing Policy team has raised no objection to the planning proposal and draft NAHCS proceeding through the Gateway.

Table 3 below provides the contribution rates for the identified areas in Figures 2-4 and has been developed in accordance with the AHCS guideline. The AHCS includes justification tables for the various areas to demonstrate that developments are not detrimentally impacted financially by the additional contribution charge.

Table 3 Contribution Rates in identified areas.

Identified Area	FSR	Contribution Rate	Equivalent monetary contribution rate
Broadmeadow Part A (residential)	>1.6:1	4% of total gross floor area (GFA)	\$321/sqm of GFA
Broadmeadow Part B (non-residential)	>1.4:1	3.30% of total GFA	\$256/sqm of GFA
Stockton North	>1.4:1	4.30% of total GFA	\$379/sqm of GFA
Western Corridor	N/A	5% of total net developable area (NDA) for planning proposals	\$300,000/ha of NDA

Additional Housing Policy Team Comments on Revised Draft NAHCS

The draft NAHCS that was submitted with the planning proposal and was referred to the Housing Policy team to assess the changes made against the comments previously provided to council. A copy of their response is at Attachment D.

A meeting was held between the regional team, Council and the Housing Policy team to discuss the comments in Attachment D. In summary, Council agreed to make the necessary changes requested by the Housing Policy team to allow the proposal to proceed to exhibition. Table 4 provides details of the discussion and agreed amendments that will be incorporated into the draft NAHCS prior to exhibition.

Table 4 Proposed amendments to NAHCS

Housing Policy Team (HPT) Comment	Council Comment	Regional Team Comment
It might be clearer to just refer to dwelling entitlement which is standard planning language used in NSW.	Council will prepare standard term that is included in other contributions schemes for HPT to consider.	Issue resolved for Gateway determination
The scheme needs to make clear that if the policy still applies where a development doesn't create an additional dwelling but proposes more than 200sqm of residential floor space in particular in Table 1 and Table 3, further clarification is needed.	Council to amend this section prior to public exhibition to provide clarification.	Issue resolved for Gateway determination
The reference to the 'use of a bonus type scheme' needs to be redrafted to make clear that any affordable housing that is proposed for additional bonuses need to be provided in addition to what is provided in the scheme.	Council to amend the 'use of a bonus scheme' to refer to the SEPP Housing affordable housing bonuses (15%/30%) and clarify that such affordable housing is in addition to that required by the scheme. It is noted these changes were made	Issue resolved for Gateway determination

Housing Policy Team (HPT) Comment	Council Comment	Regional Team Comment
	after the draft NAHCS that was reported to Council.	
Net Developable Area (NDA) needs to be defined in the scheme as the definition varies between other environmental planning instruments.	Council to include a definition of NDA.	Issue resolved for Gateway determination
The scheme needs to make clear that the 1% rate applies to the whole of the LGA under the 200sqm/additional dwelling conditions, then where the conditions in Table 2 are met, those contribution requirements take over. This might require some restructuring of the document to discuss the inclusionary rate at the beginning of the document.	<p>This is in the document.</p> <p>Council will review for clarity once the 1% feasibility analysis is finalised prior to public exhibition of the planning proposal.</p> <p>Council will also consider restructuring the document to discuss the 1% inclusionary rate in the beginning of the document.</p>	Issue resolved for Gateway determination
Table 3 should refer to minimum one dwelling to 10 dwellings as the scheme does not apply unless one additional dwelling is proposed.	Council to amend this section to indicate that it applies for '1-10 dwellings.'	Issue resolved for Gateway determination
Page 11 refers to unit cost rate – unsure what this is?	Clarified that the unit cost rate is the monetary contribution/sq m.	Issue resolved for Gateway determination
Feasibility details must be provided to justify the proposed LGA-wide 1% inclusionary zoning contribution rate. The feasibility analysis was completed in November 2022 and has not been updated with the revised scheme.	The 1% inclusionary rate feasibility assessment is currently underway and will be finalised prior to the planning proposal and NAHCS being placed on public exhibition.	<p>Issue resolved for Gateway determination. Council have assured that the feasibility assessment will be completed prior to public exhibition, and they can meet the benchmark timeframes identified in the LEP Guideline 2023.</p> <p>It was also agreed by HPT that updated feasibility assessments are not required at this stage and can be reviewed in the future accordance with the NAHCS.</p>
It is noted that the affordable housing contribution % has effectively doubled since review of the draft scheme in March 2023 for each identified area,	Council confirmed the current rates are correct and discrepancies are due to HillPDA having incorrect \$/sq in previous iterations of the NAHCS.	Issue resolved for Gateway determination

Housing Policy Team (HPT) Comment	Council Comment	Regional Team Comment
<p>however additional costs were included such as site preparation, demolition and NSW housing and productivity charge. It is unclear how the additional costs were added and yet the residual land value did not change? Further the underlying assumptions have not changed or been updated.</p>		
<p>In terms of the inclusionary zoning rate, the scheme notes that as detailed feasibility testing has not occurred, roughly a quarter of the Broadmeadow residential rate has been applied. It is considered that the Broadmeadow residential modelling could be considered indicative of the whole LGA, under the case study approach. If the Broadmeadow area is considered to represent the LGA, it is unclear why only a quarter of the rate has been applied? This undermines the rationale of having different rates for the identified areas.</p>	<p>Council indicated no planning / zoning uplift occurs in areas subject to the 1% inclusionary rate.</p>	<p>Issue resolved for Gateway determination. It is noted that the feasibility assessment of the 1% inclusionary rate is still being assessed by Council and will be finalised prior to public exhibition.</p>
<p>It is accepted that a low broad-based rate of 1% is considered to be viable and can be absorbed by the market, however further justification is required on the sqm rate e.g. why has a combination of the identified areas not been considered? It might be more beneficial and equitable to have a difference sqm rate for each suburb or region within the LGA.</p>	<p>Council is currently reviewing the feasibility of the 1% inclusionary rate and the scheme will be updated prior to public exhibition</p>	<p>Issue resolved for Gateway determination</p>
<p>Clarification is required why there are no savings or credit for floor space that may exist in the identified areas.</p> <p>Similar to savings credits for Section 7.11 or 7.12 plans, there are savings for an existing house.</p>	<p>Council has not included any specific saving credits as the 1% inclusionary rate exemption up to 200sq.m. is the credit applied.</p> <p>Confirmed that no saving credits will apply to the identified areas as these areas will have uplift through planning proposals.</p>	<p>Issue resolved for Gateway determination</p>

Housing Policy Team (HPT) Comment	Council Comment	Regional Team Comment
<p>The scheme includes an inclusionary zoning affordable housing contribution rate of 1% of GFA for residential development which results in an additional dwelling (or potential dwelling) and more than 200sqm residential GFA on the site. Consideration should be given to referring to dwelling entitlement which is standard planning language used in NSW.</p>	<p>See comment above</p>	<p>Issue resolved for Gateway determination</p>
<p>The establishment of a potentially higher rate for planning proposal lands is supported, however the scheme should also provide information on the approach used to establish the appropriate contribution rate for planning proposal land.</p>	<p>Council advised the rate is the same as for planning proposal land or DA in areas yet to be rezoned. The Western Gateway will require planning proposal for large infill areas and would negotiate through a VPA otherwise the 1% inclusionary rate would apply.</p> <p>Council would use the NAHCS to negotiate affordable housing outcomes for planning proposals that are lodged in other areas, consistent with Council's Planning Agreements Policy</p>	<p>Issue resolved for Gateway determination</p>
<p>As previously raised, the Department requests council clarify whether any sensitivity testing was carried out on the feasibility to ensure that the proposed rates will remain viable under different economic conditions given that the real estate market was high at that time of analysis?</p>	<p>Council advised the feasibility assessment was undertaken in accordance with the AHCS Guideline.</p> <p>The rates are moderate, and the market is higher now than when the feasibility assessment was carried out.</p>	<p>Issue resolved for Gateway determination. It was agreed that a review if the feasibility is not required at this stage. In accordance with the NAHCS, feasibility will be reviewed every 3 years.</p>
<p>Clarification is required if the feasibility assessment has taken into consideration any likely costs associated with land remediation, particularly on industrial lands proposed to be rezoned?</p>	<p>See comment above.</p>	<p>Issue resolved for Gateway determination.</p>

Housing Policy Team (HPT) Comment	Council Comment	Regional Team Comment
Given the low rate for inclusionary zoning, is scaling necessary? Clarification is also required if the scaling applies to the identified areas as well.	Council advised scaling is in accordance with the <i>Housing and Productivity Contribution Implementation Guideline August 2023</i> .	Issue resolved for Gateway determination. It is agreed that the scaling of the rates over a three-year period will ensure the market can absorb the additional cost.

2 Need for the planning proposal

The planning proposal and NAHCS has been prepared in response to Housing Priority 4 of the *Newcastle Local Housing Strategy – Updated 2021* to increase the supply of affordable rental housing and Action 4.1 to prepare an affordable housing contributions scheme. The LHS was endorsed by the Department on 2 March 2021.

A planning proposal is the only means to amend the Newcastle LEP 2012 to implement and apply an affordable housing contribution identified under the NAHCS. The planning proposal is supported by the draft NAHCS which was approved by Council on 12 December 2023 and will be placed on public exhibition concurrently with the planning proposal.

The proposal is considered appropriate and will help support Council's intent to deliver additional affordable housing in the Newcastle LGA.

3 Strategic assessment

3.1 Regional Plan

The vision of the Hunter Regional Plan 2041 includes new and existing residents having access to diverse and affordable housing, located near open spaces, jobs and shopping supported by public and active transport options. The NAHCS provides a mechanism for council to levy contributions to allow the provision of affordable housing in the LGA.

The planning proposal is considered to be consistent with the goals, objectives and overall intent of the Hunter Regional Plan 2041.

3.2 Greater Newcastle Metropolitan Plan 2036

The LGA is within the *Greater Newcastle Metropolitan Plan 2036* (GNMP) released in 2018. The plan contains planning priorities and actions to guide the growth of Greater Newcastle while improving its social, economic and environmental assets.

The planning proposal is consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan.

3.3 Local

An assessment of the consistency with the relevant local strategic plans is included in **Table 5** as follows:

Table 5 Local strategic planning assessment

Local Strategies	Justification
Local Strategic Planning Statement	The Planning proposal is consistent with council's LSPS
Newcastle Local Housing Strategy (updated 2021)	The planning proposal is consistent with council's local housing strategy
Newcastle Housing Policy	The planning proposal is consistent with council's Housing Policy.

3.4 Section 9.1 Ministerial Directions

The planning proposal is considered to be consistent with all relevant section 9.1 Directions except 4.3 Planning for Bushfire Protection. This direction applies as the LEP amendments will apply to land identified as being bushfire prone. Until consultation with the NSW RFS is undertaken post Gateway determination in accordance with the terms of the direction, any potential inconsistency will remain outstanding.

3.5 State environmental planning policies (SEPPs)

The policy intent of the planning proposal will not prevent the application of all State Environmental Planning Policies applicable at this time.

4 Site-specific assessment

4.1 Environmental

The planning proposal does not propose to rezone or change the current development standards that apply to the LGA. No adverse environmental impacts on critical habitat area or threatened species occurring in the LGA will result from the proposal.

4.2 Social and economic

The following **Table 6** provides an assessment of the potential social and economic impacts associated with the proposal.

Table 6 Social and economic impact assessment

Social and Economic Impact	Assessment
Social	<p>The planning proposal identified the need for more affordable housing for the very low-, low- and moderate-income households in the Newcastle LGA. This is further supported by the Affordable Housing Needs Assessment at Appendix B to the draft NAHCS.</p> <p>The planning proposal will have a positive social impact as it promotes the increased supply of affordable housing in the Newcastle LGA by reducing the impacts of housing stress and insecurity and helping to provide a diverse choice of housing for very low-, low- and moderate-income households.</p>

Economic	<p>The planning proposal is supported by a feasibility analysis undertaken in November 2022 which adequately considers the proposed land use zones and development types that the proposed NAHCS would apply to. It is considered the feasibility assessment provided with the scheme is adequate and has been reviewed by the Department's Housing Policy team.</p> <p>The potential economic benefits generated by the planning proposal include:</p> <ul style="list-style-type: none"> • The additional benefit of providing greater transparency around how contributions are determined. • The proposed rates are identified as being viable under the scheme. • The provision of affordable housing to very low-, low- and moderate-income households will provide a benefit to the economy in the Newcastle LGA by supporting employment growth and economic development.
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4.3 Infrastructure

There is no infrastructure demand that will directly result from this planning proposal.

5 Consultation

5.1 Community

Council advised that community consultation will be in accordance with the Gateway Determination.

The planning proposal is categorised as a complex under the *LEP Making Guideline August 2023* (LEP Guideline). Accordingly, a community consultation period of 30 working days is recommended and this forms part of the conditions to the Gateway determination.

5.2 Agencies

The proposal does not specifically raise which agencies will be consulted.

It is recommended the following agencies be consulted on the planning proposal and given 30 working days to comment:

- Department of Communities and Justice – NSW Land and Housing Corporation
- Department of Communities and Justice – Homes NSW
- NSW Rural Fire Service

6 Timeframe

Council proposes a 15 month time frame to complete the LEP.

The LEP Guideline establishes maximum benchmark timeframes for planning proposal by category. This planning proposal is categorised as a complex as it applies to the Newcastle LGA.

A 12-month LEP completion date is recommended in line with the Department's commitment to reducing processing times and with regard to the benchmark timeframes. A condition to the above effect is recommended in the Gateway determination.

It is recommended that if the gateway is supported it is accompanied by guidance for Council in relation to meeting key milestone dates to ensure the LEP is completed within the benchmark timeframes.

7 Local plan-making authority

In its resolution to prepare a planning proposal Council requested to be the Local Plan Making Authority. As this planning proposal is LGA wide which includes land owned by Council, and the Department needs to review the final NAHCS before the plan is made, it is recommended that Council not be authorised to be the local plan-making authority for this proposal.

8 Assessment summary

The planning proposal is supported to proceed with conditions for the following reasons:

- It supports increased diversity and affordability of housing in the Newcastle LGA.
- It provides certainty and transparency on how contributions will be calculated.
- There is a demonstrated need for affordable housing in the Newcastle LGA.
- There is suitable justification of the inconsistencies with the Department's Guideline regarding the inclusionary zoning particularly when the state is experiencing a housing crisis and the delivery of affordable housing is one of the biggest pressures facing NSW residents (and noting the Housing Policy Team has raised no objection and a similar approach for Waverly Council has already been endorsed).

Based on the assessment outlined in this report, the proposal must be updated before consultation to:

- Update the draft *Newcastle Affordable Housing Contributions Scheme* to incorporate comments received from DPHI Housing Policy team with the exception of updating the feasibility assessment at this time.

9 Recommendation

It is recommended the delegate of the Secretary:

- Note that the planning proposal's consistency with s9.1 Direction 4.3 Planning for Bushfire Protection remains outstanding until consultation can be undertaken in accordance with the terms of the direction.

It is recommended the delegate of the Minister determine that the planning proposal should proceed subject to conditions.

The following conditions are recommended to be included on the Gateway determination:

1. The planning proposal is to be updated prior to exhibition to:
 - update the supporting draft Newcastle Affordable Housing Contributions Scheme (NAHCS) in accordance with the agreed actions in Table 4 of the Gateway Determination Report.
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. Consultation is required with the following public authorities:
 - Department of Communities and Justice – NSW Land and Housing Corporation
 - Department of Communities and Justice – Homes NSW
 - NSW Rural Fire Service
4. The planning proposal should be made available for community consultation for a minimum of 30 working days.

Given the nature of the planning proposal, it is recommended that the Gateway not authorise council to be the local plan-making authority and that an LEP completion date of 12 months be included on the Gateway.



24/4/24

(Signature)

(Date)

Craig Diss

Manager, Hunter and Northern Region



26/04/24

(Signature)

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