

Lake Macquarie LEP 2014 - Reclassification of various sites from Community to Operational Land & Rezoning

Proposal Title : Lake Macquarie LEP 2014 - Reclassification of various sites from Community to Operational Land & Rezoning

Proposal Summary : The Planning Proposal (the proposal) relates to nine Council owned parcels of land and one privately owned parcel of land within the Lake Macquarie LGA and seeks to:
 1) reclassify nine parcels from Community Land to Operational Land and;
 2) to rezone four of these parcels from RE1 Public Recreation to R2 Low Density Residential and amend the Land Zoning and Lot Size maps accordingly and;
 3) to rezone one of these parcels from E2 Environmental Conservation to R2 Low Density Residential and to amend the Land Zoning, Lot Size and Height of Buildings Map accordingly; and to
 4) remove a parcel of land from the Land Reservation Acquisition Map, rezone the land from RE1 Public Recreation to R2 Low Density Residential and amend the Land Reservation Acquisition, Land Zoning and Lot Size maps accordingly.

PP Number : PP_2015_LAKEM_001_00 **Dop File No :** 15/03210

Proposal Details

Date Planning Proposal Received :	11-Feb-2015	LGA covered :	Lake Macquarie
Region :	Hunter	RPA :	Lake Macquarie City Council
State Electorate :	LAKE MACQUARIE	Section of the Act :	55 - Planning Proposal
LEP Type :	Reclassification		

Location Details

Street :	Pearson Road		
Suburb :	Charlestown	City :	LakeMacquaire
Land Parcel :	No 36 Lot 21 DP 117332		Postcode : 2290
Street :	Watkins Road		
Suburb :	Wangi Wangi	City :	Lake Macquarie
Land Parcel :	No 149 Lot 281 DP 8939		Postcode : 2267
Street :	Alhambra Avenue		
Suburb :	Macquarie Hills	City :	Lake Macquarie
Land Parcel :	No 1A Part of Lot 11 DP561068		Postcode : 2285
Street :	Reservoir Road		
Suburb :	Glendale	City :	Lake Macquarie
Land Parcel :	No 106 Lot 1 DP 961070		Postcode : 2285
Street :	Rens Street		
Suburb :	Booragul	City :	Lake Macquarie
Land Parcel :	No 11 lot 15 Sec 5 DP 14421		Postcode : 2284

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Street : **David Street**
Suburb : **Wangi Wangi** City : **Lake Macquarie** Postcode : **2267**
Land Parcel : **No 9 Part lot 1 DP 525994**

Street : **Schroder Ave**
Suburb : **Gateshead** City : **Lake Macquarie** Postcode : **2290**
Land Parcel : **Part Lot 80 DP35662**

Street : **Hayden Brook Road**
Suburb : **Booragul** City : **Lake Macquarie** Postcode : **2284**
Land Parcel : **No 41 Part Lot 364 DP 774186**

Street : **Wommara Avenue**
Suburb : **Jewells** City : **Lake Macquarie** Postcode : **2280**
Land Parcel : **No 20 Part Lot 209 DP 246099**

Street : **Primose Street**
Suburb : **Booragul** City : **Lake Macquarie** Postcode : **2284**
Land Parcel : **No 60 & 62 Lot 1 & 2 DP 211875**

DoP Planning Officer Contact Details

Contact Name : **Brian Murphy**
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RPA Contact Details

Contact Name : **Joanne Marshall**
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DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre : Release Area Name :
Regional / Sub **Lower Hunter Regional** Consistent with Strategy : **Yes**
Regional Strategy : **Strategy**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes : **Council resolved at its meeting on 13 October 2014 to support the preparation and lodgement of the proposal with the Department.**

Council submitted the proposal to the Department in mid February 2015, requesting a Gateway Determination to enable amendments to Lake Macquarie LEP 2015.

Nine of the ten sites involve Council owned land. The proposal effectively intends to discharge Council interests from this land, under section 30 of the Local Government Act 1993. Consequently Council's decision not to seek authorisation to use its delegations is supported.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives adequately outlines the intended outcomes of the proposal to reclassify and rezone Council and privately owned land.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The proposal seeks to amend Lake Macquarie LEP 2014 through changes to Schedule 4 and to the Land Zoning Map, the Lot Size map, the Height of Buildings map and the Land Reservation Acquisition map.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA : **1.1 Business and Industrial Zones**
1.5 Rural Lands
 * May need the Director General's agreement **2.1 Environment Protection Zones**

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- 2.2 Coastal Protection
- 3.1 Residential Zones
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 4.2 Mine Subsidence and Unstable Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

- SEPP No 19—Bushland in Urban Areas
- SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)
- SEPP No 71—Coastal Protection
- SEPP (Exempt and Complying Development Codes) 2008
- SEPP (Housing for Seniors or People with a Disability) 2004

e) List any other matters that need to be considered :

Ministerial Section 117 Directions

***2.1 Environmental Protection Zones**

Under clause 5 a planing proposal that applies to land within an environmental protection or land otherwise identified for environmental protection purposes in a LEP must not reduce the environmental protection standards that apply to the land. Item 9 - 20 Wommara Avenue Jewells is currently zoned E2 Environmental Conservation. The proposed reclassification and zoning of part of of the site (approximately 120 sq m) to R2 Low Density Residential is the consequence of the encroachment of a council approved garage and swimming pool into the council owned land. The proposal will formalise the existing situation, allow council to sell the land to the adjoining landowners and will have a minor if any impact on the adjoining wetland reserve of approximately 44.3 hectares.

The inconsistency with the direction is considered to be justified as it is of minor significance and any matters bcan be considered through the DA process.

*** 2.2 Coastal Protection**

Under cl.3, the s.117 Direction applies if the PP includes land within the coastal zone as defined under the Coastal Protection Act 1979. 149 Watkins Road Wangi Wangi, is identified within the coastal zone. Council's contention that the proposed reclassification for dedication as road reserve at this site will not impact on the provisions of the NSW Coastal Policy, Coastal Design Guidelines 2003, or the NSW Coastline Management Manual is concurred with due to the small size of the parcel.

Any apparent inconsistency with the direction is considered to be justified as it is of minor significance

*** 4.1 Acid Sulfate Soils**

Under cl.5 of this s.117 Direction, a planning authority must not prepare a PP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils (ASS) on the ASS maps unless the planning authority has considered an ASS study assessing appropriateness of the change of use given the presence of ASS.

Six sites are identified within the Lake Macquarie Acid Sulphate Soils Planning Maps.

Item 2 - 149 Watkins Road Wangi Wangi - Class 5 - Dedication of existing Road, no change to existing zoning.

Item 5 - 11 Rens Street Booragul - Class 5 - reclassification and zoning from RE1 Public Recreation R2 Low Density residential to enable sale of a small lot adjoining existing residential zoned land.

Item 6 - David Street Wangi Wangi - Class 5 - reclassification and zoning from RE1

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Public Recreation to R2 Low Density Residential to enable minor boundary adjustment.
Item 8 - 41 Hayden Brook Road Booragul - Class 5 - reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to enable boundary adjustment .
Item 9 - 20 Wommara Avenue Jewells - Class 5 - reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to rectify encroachments.
Item 10 - 60 & 62 Primrose Street Booragul - Class 5 - remove land form Land Reservation Acquisition map and zoning from RE1 Public Recreation to R2 Low Density Residential.

The rezoning and reclassification of land will potential enable intensification of the land. These lands can be managed as part of any future development process using provisions within Clause 7.1 Acid Sulphate Soils of Lake Macquarie LEP 2014. Any inconsistency with the direction is therefore considered to be of minor significance.

*** 4.2 Mine Subsidence and Unstable Land**

In accordance with cl.4(a) of the s.117 Direction when preparing a PP that would permit development on land within a Mine Subsidence District, Council must consult with the Mine Subsidence Board. All sites within this PP are identified within a Mine Subsidence District.

Consistent with cl 4 requirements of this Direction Council intends to consult the Mine Subsidence Board, following receipt of the Gateway Determination. Once a reply is received form the Board, consistency with this s.117 Direction can be determined.

***4.3 Flood Prone Land**

Under cl,3 of the s.117 Direction, this Direction applies when a planning proposal creates, removes or alters a zone or provision that affects flood prone land. Three sites are identified as Flood Prone Land.

Item 2 - 149 Watkins Road Wangi Wangi - Class 5 - Dedication of existing Road, no change to existing zoning.

Item 8 - 41 Hayden Brook Road Booragul - Class 5 - reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to enable minor boundary adjustment.

Item 9 - 20 Wommara Avenue Jewells - Class 5 - reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to rectify encroachments.

The rezoning and reclassification of land will potential enable intensification of the land. The proposals are of minor significance and any potential flood impacts can be managed as part of any future development process using provisions within Clause 7.3 Flood Planning of Lake Macquarie LEP 2014. Any inconsistency with the direction is therefore considered to be of minor significance.

*** 4.4 Planning for Bushfire Protection**

Under cl.3 of the s.117 Direction, this Direction applies if the planning proposal will affect, or is in proximity to land mapped as bushfire prone land. Four sites are identified as being within the Lake Macquarie Bushfire Prone Land map.

Item 3 - 1A Alhambra Avenue Macquarie Hills - Dedication of road within Buffer area

Item 4 - 106 Reservoir Road Glendale - reclassification to operational to correct an administrative error covering an existing council quarry. The land is Partly within Buffer area and partly within Vegetation Category 1 of Council's Bushfire Prone Map.

Item 7 - 21A Schroder Avenue Gateshead - reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to enable sale of existing sporting / recreation fields to adjoining school - The land is Partly within Buffer area and partly within Vegetation Category 2 Council's Bushfire Prone Map.

Item 9 - 20 Wommara Avenue Jewells - Reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to rectify building encroachments. The land partly within Buffer area and partly within Vegetation Category 1 Council's Bushfire Prone Map.

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Consistent with the cl.7 requirements of this Direction Council intends to consult the NSW Rural Fire Service (RFS), following receipt of the Gateway Determination. Once a reply is received from the RFS consistency with this Direction can be determined.

6.2 Reserving Land for Public Purposes

The Proposal seeks to reclassify council owned land currently identified as Public Reserve

Item 3 - 1A Alhambra Avenue Macquarie Hills - Dedication of road

Item 7 - 21A Schroder Avenue Gateshead - reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to enable sale of existing sporting / recreation fields to the adjoining school.

Item 8 - 41 Hayden Brook Road Booragul - reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to enable minor boundary adjustment.

Item 9 - 20 Wommara Avenue Jewells - Reclassification and zoning from RE1 Public Recreation to R2 Low Density Residential to rectify building encroachments

In accordance with cl.4 and the s.117 Direction, a Proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Director General of Planning.

In preparing the Proposal Council investigated the proposed rezoning of these lands and considers them acceptable and a minor loss to the community as outlined within Part 3 - Section A (1) of the Planning Proposal. Council authorised the preparation of the Planning Proposal and the inclusion of these lands at its meeting of 13 October 2014

SEPPs

*** SEPP No.19 Bushland in Urban Areas**

In accordance with Schedule 1 of the SEPP, this policy applies to Lake Macquarie LGA. Although the Proposal includes Public Reserve and Open Space zoned sites, no areas subject of this Proposal currently contain urban bushland. The proposal is therefore consistent with cl.10 of this SEPP.

*** SEPP No.71 Coastal protection**

Item 2 - 149 Watkins Road Wangi Wangi is identified as being within the coastal zone, being located within 100m of an inland lake. The reclassification is to formalise the existing road on the site. Council contention that the proposal satisfies clause 8 requirements of the SEPP is concurred with.

*** SEPP 32 Urban Consolidation (Redevelopment of Urban Land)**

Item 1 - The reclassification of 36 Pearson Street Charlestown involves land zoned B3. The zoning and development controls remain unchanged and therefore the proposal is consistent with the SEPP.

*** SEPP No (Exempt and Complying Development Codes) 2008**

Upon removal of the public reserve status of part of 21A Schroder Avenue Gateshead, part of 41 Hayden Brook Road Booragul and part of 20 Wommara Avenue Jewells, certain exemptions on the use of the SEPP under the General Housing Code and Rural Housing Code will no longer apply in accordance with Clause 1.19(6)(b). Sufficient information has been provided to support the proposal.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

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Community consultation - s55(2)(e)

Has community consultation been proposed?

Comment : Council has proposed a minimum 28 days for public consultation, in accordance with section 5.5.2 of the Department's LEP guideline. A public hearing will also be held, in accordance with section 29 of the Local Government Act 1993. The public hearing will be undertaken in accordance with section 5.5.3 of the Department's LEP guideline.

This community consultation is supported.

Additional Director General's requirements

Are there any additional Director General's requirements? No

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : September 2014

Comments in relation to Principal LEP : The Lake Macquarie SI LEP (LM LEP 2014) was gazetted on 12 September 2014.

Assessment Criteria

Need for planning proposal : 1. Studies and Investigations

Council advises that the Proposal has not been prepared following any outcomes of a study or report into the subject properties. Rather the properties have been identified through routine administrative tasks as either administrative anomalies or identified as no longer required or considered appropriate for their intended purpose. Council undertook investigations into each property to determine their appropriateness for reclassification and rezoning (where applicable). Investigations also revealed that none of the lands were dedicated to Council in lieu of section 94 contributions

2. Environmental Impact

Council advises that Item 4, 106 Reservoir Road Glendale was identified in a study (Austeco 2005) for a nearby site in Jubilee Road, as possibly supporting a known population of the threatened Squirrel Glider (*Petaurus norfolcensis*) which extends into surrounding remnants of vegetation. The site has been operating as a Council quarry since 1943 and is partly zoned RU6 Transition and partly zoned E4 Environmental Living. The remnant vegetation that could support the Squirrel Glider is located within the E4 zone which is not currently being used for quarry operations

The reclassification to rectify an administrative anomaly, that arose with the making of LEP 2014 to reflect the operational status of the land, will not impact on any threaten species. Any future expansion of the quarry operation or change of land use would be subject to a development application process that will need to take account of any impact on threatened species.

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No other site has been identified as having any threatened species or ecological communities and it is considered unlikely that the proposed reclassification and minor rezonings will have any adverse environmental impacts. Any future development of the sites will be subject to a DA process where any relevant environmental issues will be further considered.

3. Social and Economic Impact

It is considered that the Proposal will result in a net community benefit. As Council notes it will facilitate:

- the sale of Council land generating funds for community purposes;
- the future development of the land consistent with its current zoning and strategic intent; and
- rectify existing encroachments to public reserves and other Council owned open space areas to accurately define property boundaries.

4. SEPPs & s.117 Ministerial Directions

Refer to previous sections for discussions.

Consistency with strategic planning framework :

It is considered that the preparation of a planning proposal is the best means of facilitating reclassification and rezoning of the subject sites, and achieving the intended outcomes for each property.

Environmental social economic impacts :

The proposed reclassifications and rezonings are consistent with the Lower Hunter Regional Strategy (LHRS) which encourages infill development and increasing housing choice. And Council's Lifestyle 2030 Strategy which provides the long-term direction for the development of the city and objective to promote future residential development.

Items 5, 6 and 8 will provide additional land to be sold and developed for residential purposes. The administrative amendments (Items 1,4,7,9 & 10) and the amendments to support or formalise road works are not inconsistent with the objectives of the LHRS or Lifestyle 2030.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **9 months** Delegation :

Public Authority Consultation - 56(2)(d) : **Mine Subsidence Board**
NSW Rural Fire Service

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

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Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Proposal Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal - 2014 Housekeeping LEP.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.1 Business and Industrial Zones**
 - 1.5 Rural Lands**
 - 2.1 Environment Protection Zones**
 - 2.2 Coastal Protection**
 - 3.1 Residential Zones**
 - 3.4 Integrating Land Use and Transport**
 - 4.1 Acid Sulfate Soils**
 - 4.2 Mine Subsidence and Unstable Land**
 - 4.4 Planning for Bushfire Protection**
 - 5.1 Implementation of Regional Strategies**
 - 6.1 Approval and Referral Requirements**
 - 6.2 Reserving Land for Public Purposes**

Additional Information : **It is recommended that the Planning Proposal proceed subject to the following conditions:**

- 1 . Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 ('EP&A' Act) as follows:**
 - (a) the Planning Proposal be made publicly available for a minimum 28 days.**
 - (b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 5.5.2 of A guide to preparing LEPs (Department of Planning & Infrastructure 2013)**

- 2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:**
 - * NSW Rural Fire Service**
 - * Mine Subsidence Board**

Each public authority is to be provided with a copy of the Planning Proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the Planning Proposal.

- 3. The Director General (or delegate) agree to the changes to the public reservation of land 6.2 Reserving Land for Public Purposes and agree to the following section 117 Direction inconsistencies – 2.1 Environmental Protection Zones; 2.2 Coastal Protection; 4.1 Acid Sulfate Soils; 4.3 Flood Prone Land as the inconsistencies with the Directions are of minor significance**

- Consultation is required with the Mine Subsidence Board and NSW Rural Fire Service to determine consistency with section 117 Directions – 4.2 Mine Subsidence and Unstable Land and 4.4 Planning for Bushfire Protection respectively. Council is to amend the**

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Planning Proposal, if necessary, to take into consideration any comments made prior to undertaking public exhibition.

4. 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 submission if reclassifying land).

5. Prior to the planning proposal being placed on public exhibition, Council is to confirm the 'public reserve' status, trusts, interest etc of the land parcels and update the planning proposal as necessary, to assist the community in understanding exactly what is proposed.

6. As the planning proposal includes reclassification of public land that may require the Governor to discharge 'public reserve' status, trusts, interests etc from the land, Council should not exercise their delegations under section 59(1) of the EP&A Act.

7. The time-frame for completing the LEP is to be 9 months following the Gateway Determination.

Supporting Reasons :

The proposal is essentially a housekeeping amendment that will address relatively minor administrative and zoning anomalies. Council has undertaken the necessary investigations into each property to determine their appropriateness for reclassification and/ or rezoning.

The proposal is consistent with the objectives of the Lower Hunter Regional Strategy and Council's Lifestyle 2030 strategy and on balance it is considered that there will be a net community benefit to the proposal proceeding.

Signature:



Printed Name:

K. O'Flaherty

Date:

24-2-15