

## Planning Proposal – Toronto Road, Booragul

### Amendment to Lake Macquarie Local Environmental Plan (LMLEP) 2014

<b>Local Government Area:</b>	Lake Macquarie City Council (LMCC)						
<b>Name of Draft LEP:</b>	Lake Macquarie Local Environmental Plan (LMLEP) 2014 – Toronto Road, Booragul						
<b>Subject Land:</b>	<ul style="list-style-type: none"> <li>• 87 Toronto Road, Booragul (Lot 1 DP 1226922)</li> <li>• 29 Rens Street (Lot 10 Sec 6 DP 14421), 116 (Lot 8 Sec 6 DP 14421) and 118 Toronto Road, Booragul (Lot 9 Sec 6 DP 14421)</li> </ul>						
<b>Land Owner:</b>	Anglican Care and private land owners						
<b>Applicant:</b>	Anglican Care and Council (for privately owned land)						
<b>Folder Number:</b>	RZ/6/2016						
<b>Date:</b>	20 February 2017						
<b>Author:</b>	Angel Troke – Strategic Planner						
<b>Tables:</b>	<table border="1"> <thead> <tr> <th>Table No.</th> <th>Details</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Assessment of SEPPs</td> </tr> <tr> <td>2</td> <td>Assessment of Ministerial Directions</td> </tr> </tbody> </table>	Table No.	Details	1	Assessment of SEPPs	2	Assessment of Ministerial Directions
Table No.	Details						
1	Assessment of SEPPs						
2	Assessment of Ministerial Directions						

Maps:	Map No.	Details
	1	Locality Map
	2	Aerial Photograph
	3	Existing Zones
	4	Existing Lot Size
	5	Existing Land Reservation Acquisition
	6	Proposed Zones
	7	Proposed Lot Size
	8	Proposed Land Reservation Acquisition

## Part 1 – OBJECTIVES OR INTENDED OUTCOMES

The objective of the Planning Proposal is to amend Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) to rezone part of an existing aged care facility site located at Toronto Road, Booragul to reflect its current usage. Nearby privately owned residential properties will also be rezoned and acquisition layer removed as road widening is no longer proposed.

## Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the LMLEP 2014 by:

Amendment Applies to	Explanation of provision
Land Zoning Map	Rezone the subject land from SP2 Infrastructure and SP1 Special Activities – Mines to R2 Low Density Residential.
Land Reservation Map	Remove the land reservation off privately owned land at 29 Rens Street, 116 and 118 Toronto Road, Booragul.
Lot Size Map	Apply a 450m lot size to areas proposed to be rezoned to R2 Low Density Residential
Height of Building Map	No changes required. Existing building height of all areas is currently 8.5m.

## Part 3 – JUSTIFICATION

### Section A – Need for the Planning Proposal

**1. *Is the planning proposal a result of any strategic study or report?***

The Planning Proposal is not the result of a strategic study or report. The planning proposal is in response to zoning that is inconsistent with the current and future use of the site. The site has been used for residential aged care for over 40 years. Seniors Living is not permissible in the SP1 Special Activities and SP2 Infrastructure zone. The proposal will allow for the ongoing use of existing aged care site and allow for any necessary upgrades required for the current facility.

The privately owned residential premises that are currently partly zoned SP2 Infrastructure will be rezoned to residential to reflect their current use and the acquisition layer will be taken off these parcels as the RMS has advised that this land is no longer required for road widening purposes.

**2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?***

Rezoning the site to R2 Low Density Residential will be in keeping with zoning of majority of the aged care facility and provide for ongoing use, potential extension and effective management of the aged care site for its current and likely future use. Existing use rights is not considered an option in the long term to allow for the continued use of the site. The removal of the road zoning and acquisition layer is needed to reflect this land is no longer required for road widening.

## Section B – Relationship to Strategic Planning Framework

3. ***Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?***

### Hunter Regional Plan

The planning proposal will provide opportunity for the continuation and redevelopment of aged care housing, which is in keeping with the objective of the strategy to allow targets to be met for dwelling growth to 2036 and beyond and also recognises the ageing of our population. The Regional Plan identifies that by 2036, the percentage of people aged over 65 years is projected to increase from 19 to 25%. Direction 22 seeks to promote housing diversity and to respond to housing demand including for the ageing community. The site has good direct access to the local road network and existing public transport.

Booragul is an existing local centre with access to public transport, including a railway stop and the aged care facilities provide accommodation for our ageing society.

The rezoning of part of the privately owned parcels is only a minor amendment and is in keeping with the existing use of these properties.

4. ***Is the planning proposal consistent with a council's local strategy or other local strategic plan?***

### Lifestyle 2030 Strategy (LS2030)

The proposal is consistent with the Lifestyle 2030 Strategy. The site is within reasonable distance to the Toronto town centre, as well as services and facilities offered in the north of Lake Macquarie LGA (Glendale, Warners Bay). It also has good access to Booragul train station.

5. ***Is the planning proposal consistent with applicable State Environmental Planning Policies?***

The Planning Proposal is consistent with the following relevant State Environmental Planning Policies (SEPPs) outlined in Table 1 below.

**Table 1: Consistency with applicable State Environmental Planning Policies**

SEPP	Relevance	Implications
<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>	This SEPP governs what type of development is Exempt or Complying in accordance with set criteria and being of minimal environmental impact.	<b>Consistent:</b> In respect of the proposed rezoning/zone boundary adjustment – the proposed amendment is not in conflict with the SEPP as the requirement will not alter provisions within the SEPP.
<i>State Environmental Planning Policy No 14—Coastal Wetlands</i>	The SEPP ensures that wetlands are preserved and protected for environmental and economic reasons.	<b>Consistent:</b> The proposal does not affect Coastal Wetlands. The planning proposal merely rectifies a zoning anomaly.
<i>State Environmental Planning Policy No 19—Bushland in Urban Areas</i>	The policy is designed to protect bushland in public open space zones and reservations, and to ensure that bush preservation is given a high priority when local environmental plans for urban development are	<b>Consistent:</b> The proposal does not affect bushland areas within or adjoining public open space zones or reservations. The planning proposal merely rectifies a zoning anomaly.

SEPP	Relevance	Implications
	prepared	
<i>State Environmental Planning Policy No 55—Remediation of Land</i>	Introduces state-wide planning controls for the remediation of contaminated land.	<p><b>Consistent:</b></p> <p>A Phase 1 contamination investigation has been prepared. This investigation identified that based on the results of the investigation the site is considered suitable for the proposed rezoning to R2 Low Density Residential Landuse from a contamination perspective.</p> <p>The investigation identified that given the presence of variable fill materials across the site it is recommended additional investigations be conducted to confirm soil conditions within the area of interest if development/redevelopment of the site is proposed and in accordance with SEPP 55.</p>
<i>State Environmental Planning Policy No 71—Coastal Protection</i>	The policy has been made under the Environmental Planning and Assessment Act 1979 to ensure that development in the NSW coastal zone is appropriate and suitably located, to ensure that there is a consistent and strategic approach to coastal planning and management and to ensure there is a clear development assessment framework for the coastal zone.	<p><b>Consistent:</b></p> <p>The site is within the coastal zone. However, the zone changes are consistent with this Policy and are minor in nature.</p>
<i>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</i>	Encourage the development of high quality accommodation for our ageing population and for people who have disabilities - housing that is in keeping with the local neighbourhood.	<p><b>Consistent:</b></p> <p>The site provides accommodation and care for seniors. Future development of the site may occur under the design considerations of this SEPP.</p>
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process.	<p><b>Consistent:</b></p> <p>The Planning Proposal will not be in conflict with the provisions within the SEPP. No development is proposed with this planning proposal.</p>
<i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</i>	This Policy aims to provide for the proper management and development of mineral, petroleum and extractive material resources for the social and economic welfare of the State. The Policy establish	<p><b>Consistent:</b></p> <p>The Planning Proposal will not be in conflict with the provisions of this SEPP. The land which is to be rezoned is an access road with existing development. The land to the north and also zoned as SP1 Special Activities - Mines is used as a training facility. This site is also likely to</p>

SEPP	Relevance	Implications
	appropriate planning controls to encourage ecologically sustainable development.	close. The planning proposal was referred to Subsidence NSW who raised no objection to the rezoning.

**Table 1: Assessment of the Planning Proposal against relevant SEPPs**

**6. *Is the planning proposal consistent with applicable Ministerial Directions (s.117 (2) directions)?***

An assessment of the Planning Proposal and its consistency against the applicable Ministerial Directions is provided at Table 2 below.

**Table 2: Consistency with applicable Section 117(2) Ministerial Directions**

Ministerial Direction	Objective/s	Consistency / Comment
1.1 Business and Industrial Zones	Protects business and industrial zones for employment uses.	The planning proposal will not impact business or industrial zones.
1.2 Rural Zones	Protect the agricultural production value of rural land.	Rural zones are not impacted.
1.3 Mining, Petroleum Production and Extractive Industries	Ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	The Planning Proposal will not be in conflict with the provisions within the Direction. No development is proposed with this planning proposal. The land which is to be rezoned is an access road with existing development. The land to the north and also zoned as SP1 Special Activities - Mines is used as a training facility. This mine will be closing down and Council will need to consider the most appropriate zone for this facility in the future
2.1 Environment Protection Zones	Protect and conserve environmentally sensitive areas.	No environmental zones are impacted and the rezoning will have minimal environmental impact.
2.2 Coastal Protection	Implement the principles in the NSW Coastal Policy.	The rezoning falls within the NSW Coastal zone however, no development is proposed as it already exists, and therefore the planning proposal is consistent with this Direction.
2.3 Heritage Conservation	Conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	This direction does not apply, as there are no know Aboriginal or European heritage items on or near the site and the site is not part of Sensitive Aboriginal Cultural Landscape. The nearest heritage item is the main northern railway, however this will not be impacted.

Ministerial Direction	Objective/s	Consistency / Comment
2.4 Recreation Vehicle Areas	Protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	N/A
3.1 Residential Zones	(a) Encourage a variety and choice of housing types to provide for existing and future housing needs, (b) Make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) Minimise the impact of residential development on the environment and resource lands.	The proposal is consistent with the objectives of the direction to make efficient use of existing infrastructure and services and will rezone part of the existing site to R2 Low Density Residential.
3.2 Caravan Parks and Manufactured Home Estates	(a) Provide for a variety of housing types, and (b) Provide opportunities for caravan parks and manufactured home estates.	N/A
3.3 Home Occupations	Encourage the carrying out of low-impact small businesses in dwelling houses.	N/A
3.4 Integrating Land Use and Transport	Ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	This direction applies to all planning proposals creating, altering or removing urban land. The LEP Amendment is consistent with this direction because it will provide aged care use as part of an existing development close to existing services and public transport with access to Booragul train station.
3.5 Development Near Licensed Aerodromes	(a) Ensure the effective and safe operation of aerodromes, and (b) Ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) Ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	N/A

Ministerial Direction	Objective/s	Consistency / Comment
3.6 Shooting Ranges	(a) Maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) Reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) Identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	N/A
4.1 Acid Sulfate Soils	Avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	The land is affected by Acid Sulphate soils Class 5. However, there is no intensification of land use involved with the rezoning of this land as the development already exists on the land. The land is also classed as Geotechnical zones T3 and T5.
4.2 Mine Subsidence and Unstable Land	Prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	The land is within the Lake Macquarie Mine Subsidence District. However, the sites are already developed. The planning proposal was referred to Subsidence NSW who raised no objection to the rezoning.
4.3 Flood Prone Land	(a) Ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) Ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	The Planning proposal is consistent with this direction. The land is not Flood prone land.
4.4 Planning for Bushfire Protection	(a) Protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and (b) Encourage sound management of bush fire prone areas.	A small part of the study area is Bushfire Prone land. The RFS advised they had no objection to the rezoning and the objectives of Planning for Bushfire Protection 2006 should be considered in any subsequent development application.
5.1 Implementation of Regional Plans	Give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The Planning proposal is consistent with the Hunter Regional Plan.
6.1 Approval and Referral Requirements	Ensure that LEP provisions encourage the efficient and appropriate assessment of development.	The Planning Proposal does not require concurrence, consultation or referral of development application to the minister.
6.2 Reserving Land for Public Purposes	(a) Facilitate the provision of public services and facilities by reserving land for public purposes, and (b) Facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	This LEP Amendment will facilitate the removal of reservations of land for public purposes. The privately owned land will be rezoned to residential and the acquisition layer removed. The RMS has been consulted and have no concerns with the rezoning and removal of the acquisition layer. The proposal is consistent with this direction.

Ministerial Direction	Objective/s	Consistency / Comment
6.3 Site Specific Provisions	Discourage unnecessarily restrictive site specific planning controls.	The Planning Proposal does not allow a particular development to be carried out on site, or impose any additional development standards or requirements to those existing to the zone.

### Section C – Environmental, Social and Economic Impact

**7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the planning proposal?***

The planning proposal does not impact on threatened species, populations or ecological communities of the habitat. The sites are already developed sites and the zoning reflects the current land use.

**8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?***

There are no other likely environmental effects as the proposal is administrative only and will not alter development outcomes.

**9. *How has the planning proposal adequately addressed any social and economic effects?***

The zoning changes are minor in nature so will have minimal social and economic impacts. However, the rezoning of the aged care facility will have positive impacts in allowing the aged care facility to be upgraded.

### Section D – State and Commonwealth Interests

**10. *Is there adequate public infrastructure for the planning proposal?***

The sites are already developed and the zone changes are minor and represent the current land use. The area is already serviced with all necessary public infrastructure in place.

**11. *What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?***

Government agencies were consulted in accordance with the Gateway determination requirements. Council has already consulted with the Roads and Maritime Service (RMS) to identify whether the SP2 Infrastructure zone is still needed for road widening. Their response is below:

**Roads and Maritime Service**

The RMS advised that they had no objection consistent with Roads and Maritime’s previous correspondence dated 8 August 2016 as it is considered there will be no significant impact on the nearby classified (State) road network.

**Roads and Maritime – 8 August 2016 Response**

The land was initially zoned for the purposes of road widening of Toronto Road associated with the Five Islands upgrade project and the Fennell Bay to Booragul corridor upgrade. Following completion of bridge works and road works, the Five Islands upgrade project was open to traffic in January 2007. In 2010, Roads and Maritime exhibited the plan to upgrade the road corridor between Fennell Bay to Booragul, recognising the need to accommodate increased road capacity for future growth to reduce potential traffic congestion and improve road safety.

The RMS raises no objection to the proposed rezoning of part of the following allotments in the manner described below as it is considered there will be no significant impact on the nearby classified (State) road network:

- LOTS: 8, 9 & 10, SEC: 6, DP: 14421 (No. 29 Rens Street, Nos.116 and 118 Toronto Road, Booragul) — Rezone from SP2 Infrastructure (Classified Road) to R2 Low Density Residential; and
- LOT: 10, DP: 1048813 (No. 87-89 Toronto Road, Booragul) — Rezone from SP2 Infrastructure (Classified Road) to R2 Low Density Residential.

However, the RMS advised that they did object to the proposed rezoning of Council owned land at 105 Toronto Road, Booragul from SP2 Infrastructure (Classified Road) to RE1 Public Recreation as this land may be required for infrastructure or associated uses. Following this advice the property has been removed from the planning proposal.

### ***Rural Fire Service (RFS)***

The RFS reviewed the proposal with regard to section 4.4 of the directions issued under section 117(2) of the *Environmental Planning and Assessment Act 1979*. The RFS raised no objection to the draft plan. The aims and objectives of *Planning for Bushfire Protection 2006* should be considered in any subsequent development application.

### ***Mine Subsidence Board (MSB)***

The MSB raised no objection to the amendment.

## **Part 4 – MAPPING**

### **Map 1 – Locality**



 Subject Land

**Locality**


  
 0 2  
 Kilometres


  
 N

Projection GDA 1994  
 Zone 56


  
 Lake Macquarie  
 City Council

Date: 17/08/2016 Planning Proposal: RZ/6/2016

Base Map Credits:

## Map 2 – Aerial Photograph



Parcel Boundary  
 Subject Site

**Air Photo**  
**2014 Aerial Photography**  
 Sinclair Knight Merz 2014

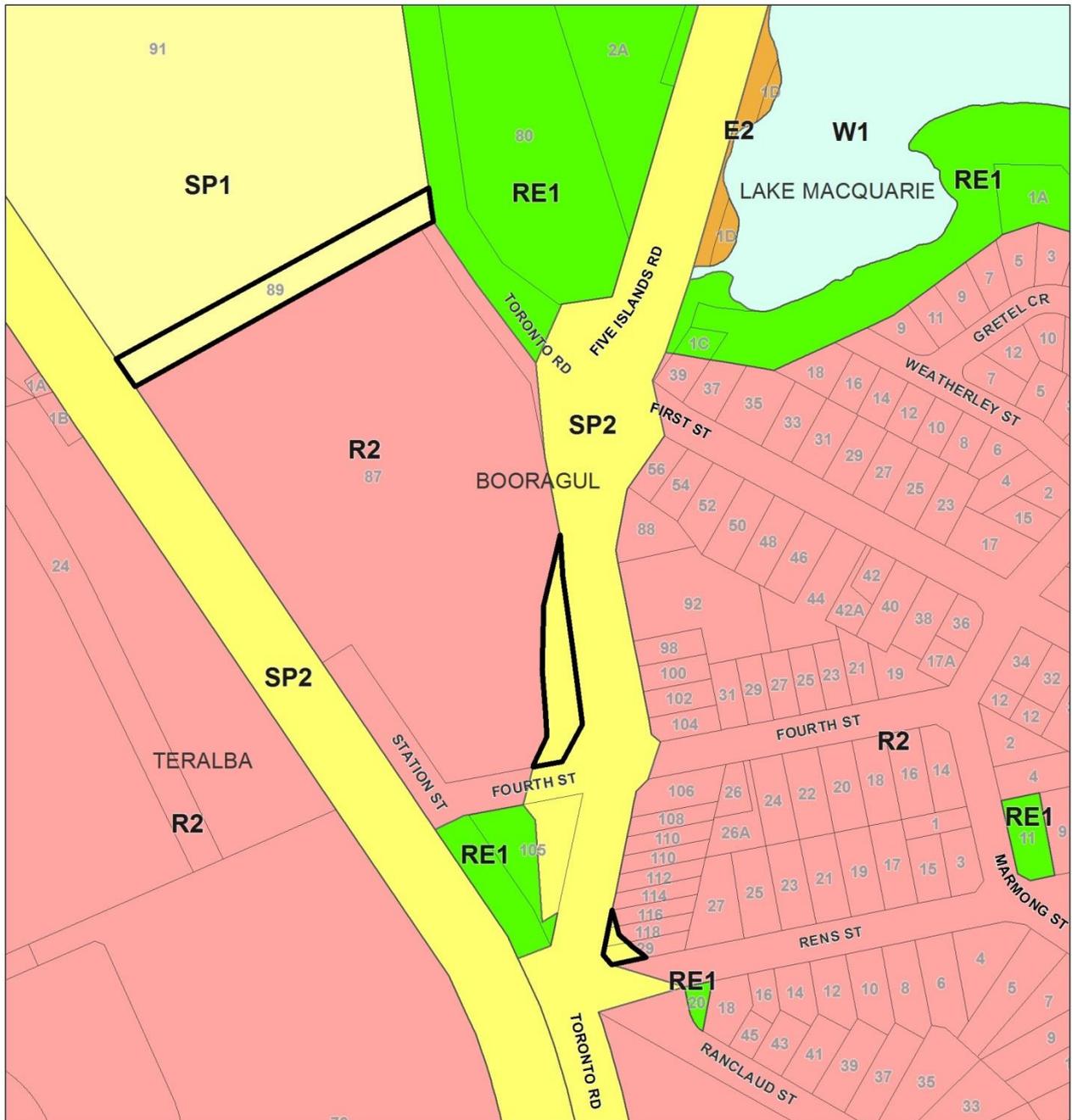
0  100  
 Metres

N  
  
 Projection GDA 1994  
 Zone 56

Lake Macquarie  
 City Council

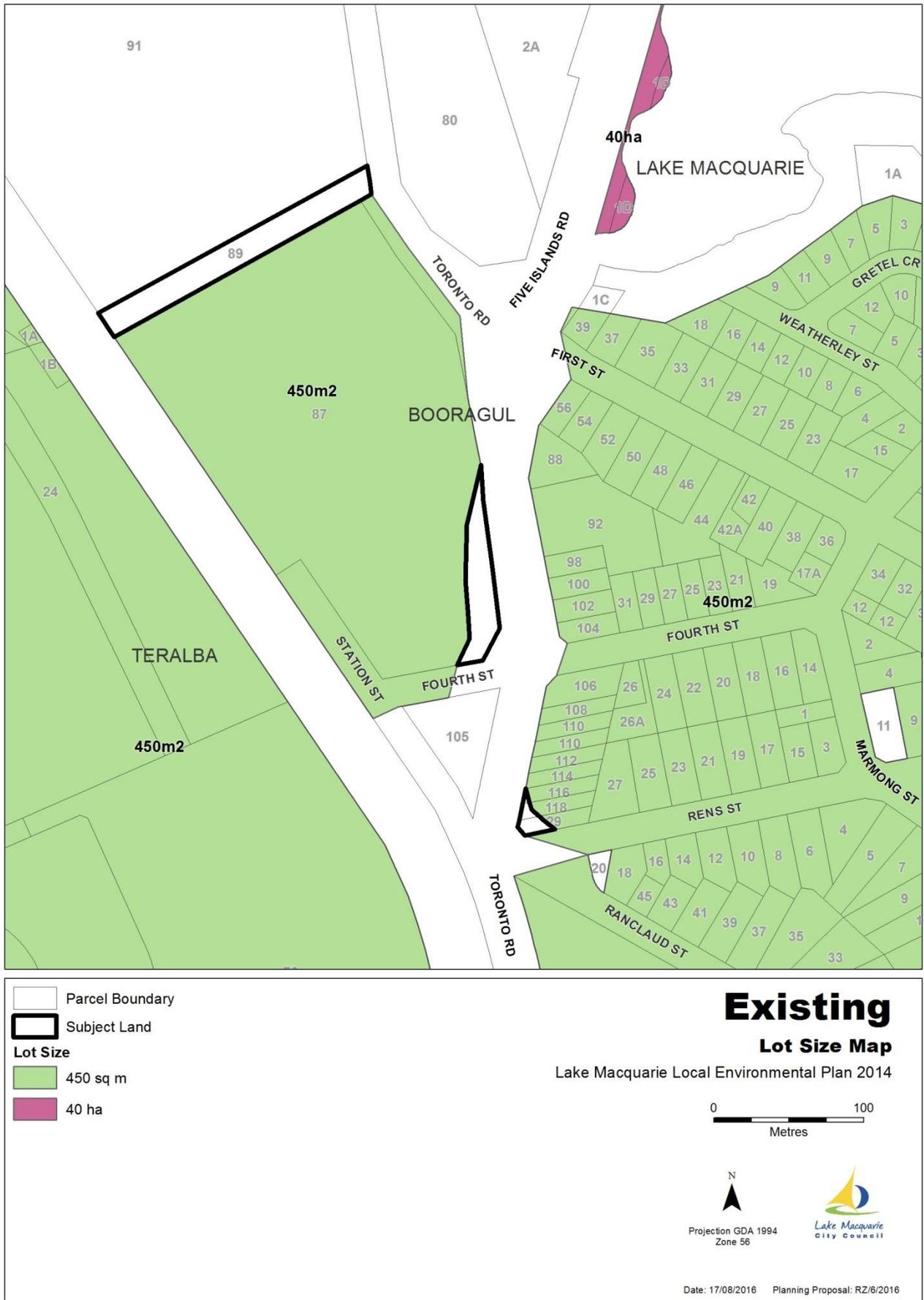
Date: 17/08/2016    Planning Proposal: RZ/6/2016

### Map 3 – Existing Zones

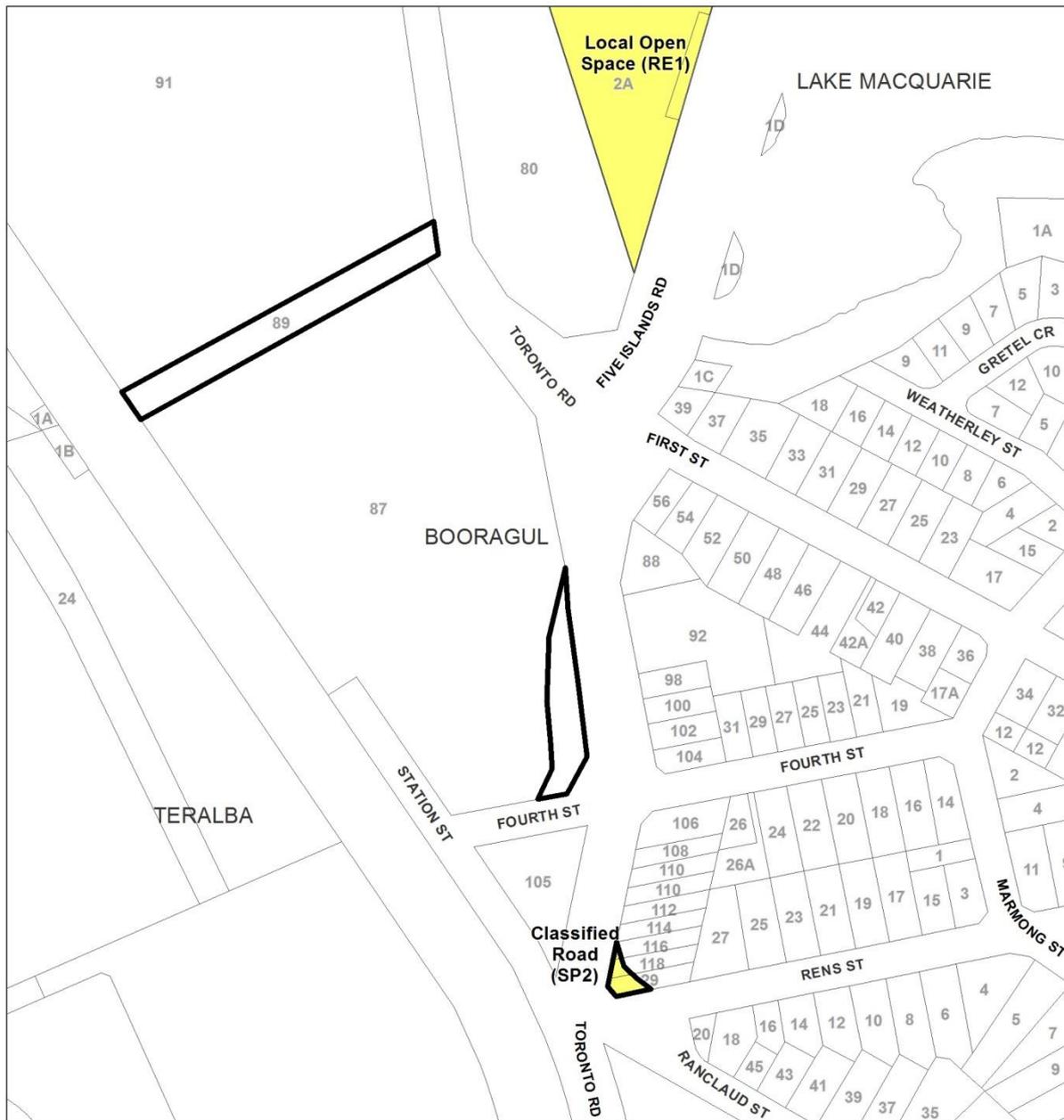


	Parcel Boundary	<b>Existing Land Zoning Map</b>
	Subject Land	
<b>Land Zoning</b>		Lake Macquarie Local Environmental Plan 2014
	E2 Environmental Conservation	0  100 Metres
	R2 Low Density Residential	
	RE1 Public Recreation	Projection GDA 1994 Zone 56
	SP1 Special Activities	
	SP2 Infrastructure	Date: 17/08/2016    Planning Proposal: RZ/6/2016
	W1 Natural Waterways	

## Map 4 – Existing Lot Size



## Map 5 – Existing Land Reservation Acquisition

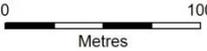


	Parcel Boundary
	Subject Land
<b>Land Reservation Acquisition</b>	
	Land Reservation Acquisition

## Existing

### Land Reservation Acquisition Map

Lake Macquarie Local Environmental Plan 2014



0 100  
Metres



N

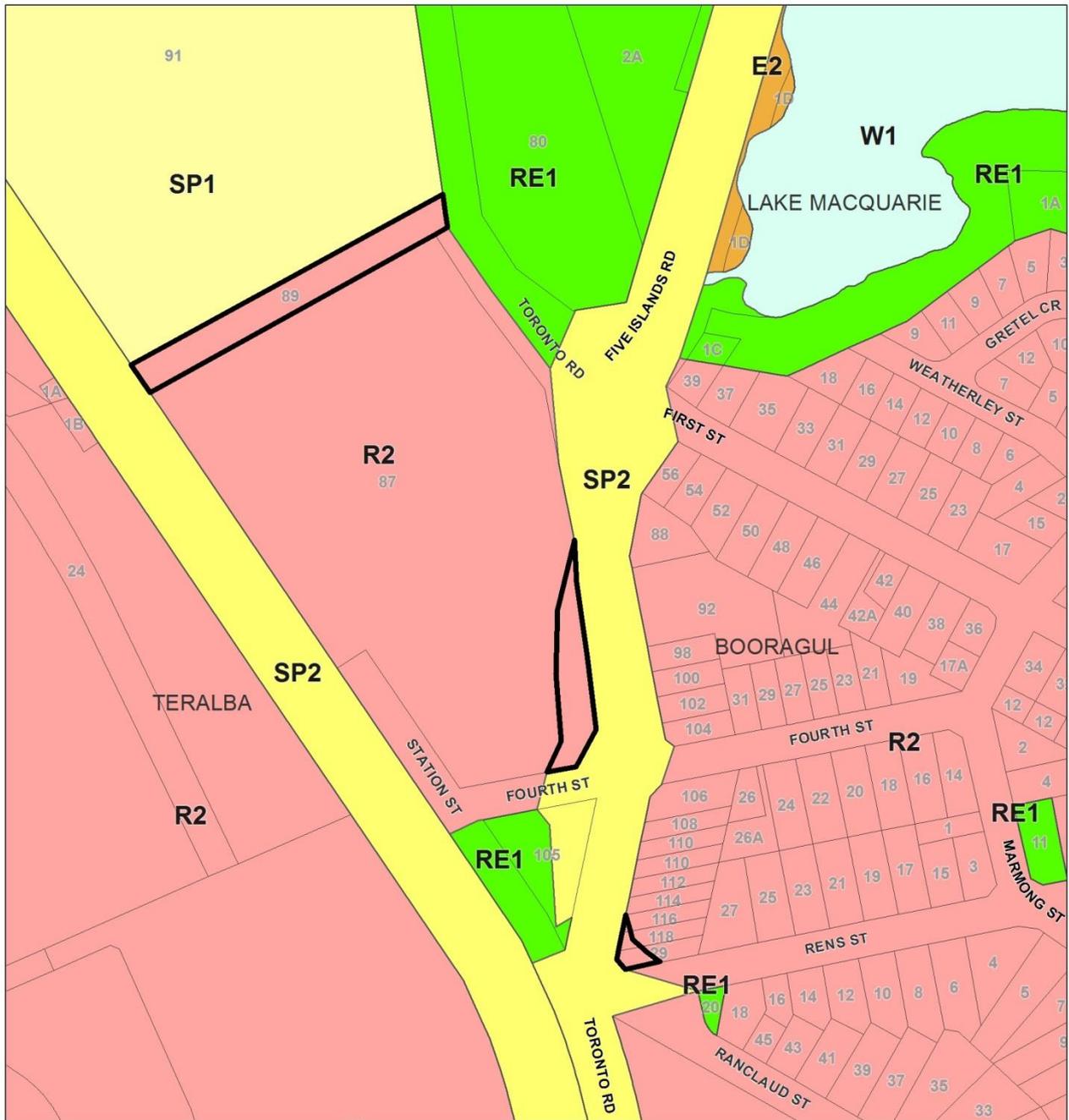
Projection GDA 1994  
Zone 56



Lake Macquarie  
City Council

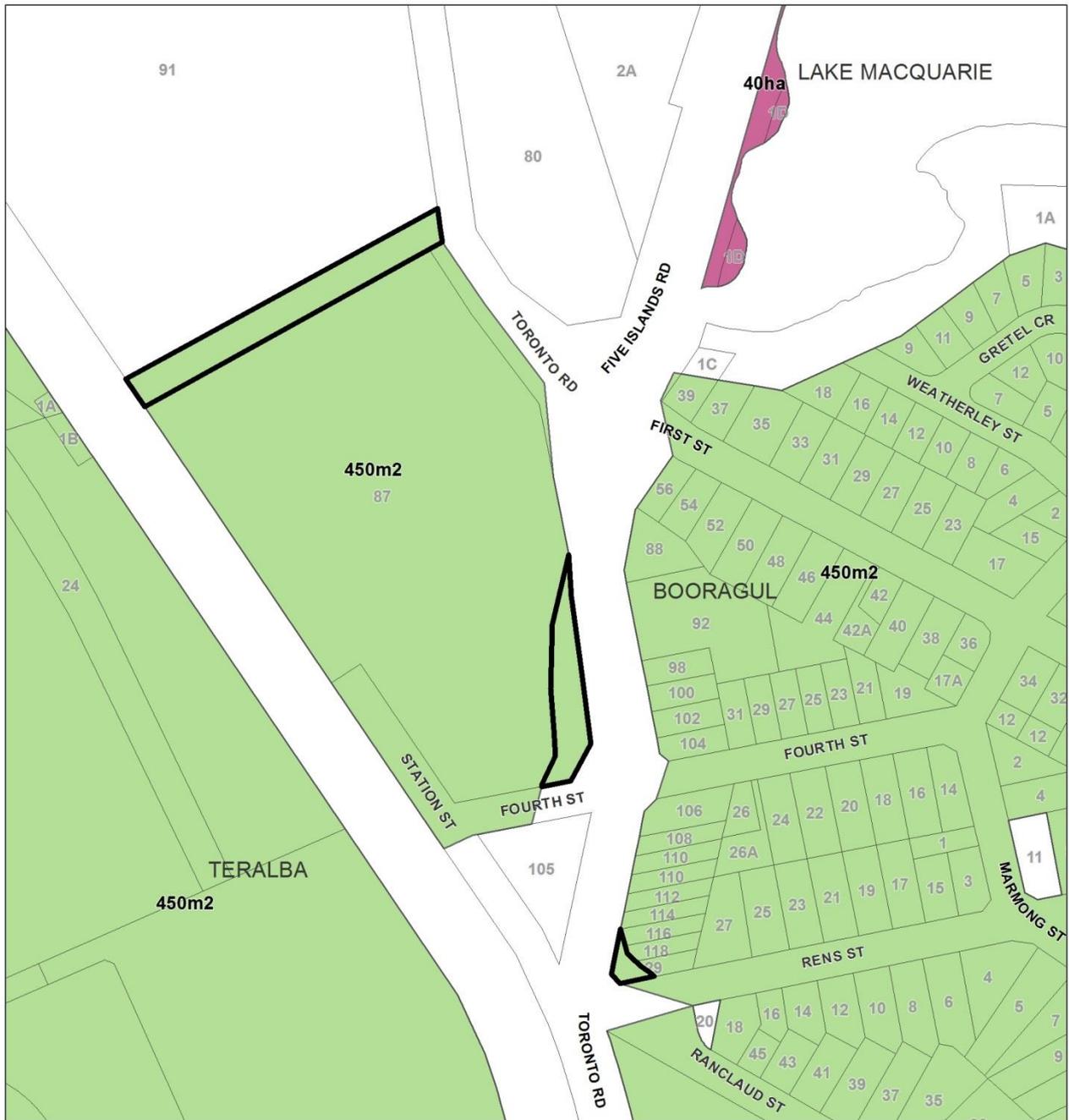
Date: 17/08/2016 Planning Proposal: RZ/6/2016

## Map 6 – Proposed Zones



	Parcel Boundary	<b>Proposed</b> <b>Land Zoning Map</b> Lake Macquarie Local Environmental Plan 2014
	Subject Land	
<b>Land Zoning</b>		0  100 Metres   Projection GDA 1994 Zone 56    Date: 17/08/2016    Planning Proposal: RZ/6/2016
	E2 Environmental Conservation	
	R2 Low Density Residential	
	RE1 Public Recreation	
	SP1 Special Activities	
	SP2 Infrastructure	
	W1 Natural Waterways	

### Map 7 – Proposed Lot Size



	Parcel Boundary	<b>Proposed</b>
	Subject Land	
<b>Lot Size</b>		<b>Lot Size Map</b>
	450 sq m	Lake Macquarie Local Environmental Plan 2014
	40 ha	0  100 Metres



Projection GDA 1994  
Zone 56



Lake Macquarie  
City Council

Date: 17/08/2016    Planning Proposal: RZ/6/2016

## Map 8 – Proposed Land Reservation Acquisition



## Part 5 – COMMUNITY CONSULTATION

The Planning Proposal was exhibited from 9 January to 6 February 2017. Whilst the Gateway determination only required a 14 day exhibition period, the exhibition was extended due to the summer holiday period. Council did not receive any public submissions on the planning proposal.

## Part 6 – PROJECT TIMELINE

Action	Timeframe
Anticipated commencement date (date of Gateway determination)	Late October 2016
Anticipated timeframe for completion of required technical information	Nil
Timeframe for government agency consultation (pre exhibition)	21 days
Public exhibition (commencement and completion dates)	28 days
Date of Public hearing (if required)	Nil
Consideration of submissions	1 week
Timeframe for government agency consultation (post exhibition if required)	21 days
Post exhibition planning proposal consideration / preparation	1 week
Submission to Department to finalise LEP	March 2017
Date RPA will make Plan (if delegated)	March 2017
Date RPA will forward to the Department for notification (if not delegated)	April 2017