

Planning Proposal – Toronto Road, Booragul – (PP_2016_LAKEM_004_00)

Report to Director City Strategy – Use of Delegations to finalise Amendment to Lake Macquarie LEP 2014 – Toronto Road, Booragul.

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Report By: Strategic Planner – Angel Troke

7 February 2017

Précis:

A Planning Proposal (Attachment 1) to rectify zone anomalies affecting an existing aged care facility at 87 Toronto Road, Booragul and privately owned properties, also on Toronto Road, were exhibited from 9 January 2017 to 6 February 2017. Council received no public submissions on the Planning Proposal and three responses from government agencies - no major concerns were raised and no changes are proposed to the planning proposal.

This report recommends the use of the Director of City Strategy's Delegation of Authority and delegations granted by the Minister for Planning and Environment to make the local environmental plan (LEP) under section 59 of the *Environmental Planning and Assessment (EP&A) Act 1979*.

Background:

Council resolved on 10 October 2016 (16STRAT038), to prepare a draft amendment to Lake Macquarie Local Environmental Plan (LEP) 2014 (Attachment 2). The amendment seeks to rezone part of an existing aged care facility site located at Booragul to reflect its current usage. Nearby privately owned residential properties along Toronto Road will also be rezoned and acquisition layer removed, as road widening is no longer proposed.

The Department of Planning and Environment (DoPE) issued a Gateway determination and granted Council delegations under s59 of the EP&A Act 1979 to make the LEP on behalf of the Minister for Planning (Attachment 3). Community consultation has now occurred in accordance with the Gateway determination and no submissions from the public were received.

Proposal:

It is proposed that the Director of City Strategy's Delegation of Authority be used to advise the Minister for Planning and Environment that no changes are required to the Planning Proposal and to make the plan. A resolution from Council is not required to advise the Minister when this Delegation of Authority is exercised. This delegation enables the Director of City Strategy:

To advise the Minister for Planning that no change is required to a Planning Proposal for a minor matter, at the conclusion of the community consultation process for that Planning Proposal. A minor Planning Proposal would be:

- 1) Where the Planning Proposal clearly articulated the nature of the change to the LEP at the section 56(1) stage of the amendment process; and*

2) Where the Gateway Determination has directed that the LEP amendment will be dealt within a timeframe of 9 months or less.

3) Where no submissions are received by Council during exhibition, that requests a change to the Planning Proposal.

The Planning Proposal complies with this delegation, specifically:

- the Planning Proposal (Attachment 1) clearly articulated the nature and justification of the change to the LEP at the section 56(1) stage;
- no public submissions were received for Council to consider;
- the Gateway Determination requires the LEP amendment to be completed within a timeframe of 6 months.

As the Department of Planning and Environment also issued authorisation for Council to exercise delegation to make the plan under section 59 of the *Environmental Planning and Assessment Act 1979*, Parliamentary Counsel will be directly requested. Upon receipt of Parliamentary Counsel opinion, the plan will be made pursuant to the Minister's delegation of authority.

Consultation:

Government agencies

The Gateway determination required consultation with Transport for NSW – Roads and Maritime Service, NSW Rural Fire Service and the Mine Subsidence Board. These responses are summarised below:

○ Roads and Maritime Service

The RMS advised that they had no objection as the proposal is consistent with Roads and Maritime's previous correspondence dated 8 August 2016. 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.

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.

Public exhibition

The Gateway determination advised that the Planning Proposal should be exhibited for 14 days. However, due to the Planning Proposal being exhibited in the summer holiday period, the Planning Proposal was exhibited for 28 days, from 9 January to 6 February 2017. Council received no public submissions on the Planning Proposal.

Implications:

Policy Implications:

The Planning Proposal is consistent with all relevant policies and planning strategies.

Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

The Planning Proposal will rezone the subject land under *LMLEP 2014* from SP1 Special Activities – Mines and SP2 Infrastructure to R2 Low Density Residential.

Lifestyle 2030 Strategy

Council's Lifestyle 2030 Strategy (LS2030) provides the long-term direction for the overall development of the City and is a long-range land use strategic plan and policy document. 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 (Speers Point and Glendale). The site also has good access to Booragul train station and transport connections.

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.

Lake Macquarie Development Control Plan (DCP) 2014

Any new development on the site would need to be consistent with the provisions of the DCP.

State Environmental Planning Policies (SEPPs)

An assessment of the relevant SEPPs has been undertaken and is provided in the Planning Proposal (see Attachment 1).

Ministerial Directions

An assessment of the relevant Ministerial Directions has been undertaken and is provided in the Planning Proposal (see Attachment 1).

Environmental Implications:

The Planning Proposal has minimal environmental implications and the zone changes will reflect the current use of each site.

Social Implications:

The planning proposal will have minimal social implications. The rezoning however will allow for any necessary upgrades to this aged care facility.

Infrastructure Asset Implications:

There will be no infrastructure asset implications, as the amendments to the LEP are administrative.

Financial Implications:

There will be no specific financial implications for Council apart from staff resources involved in the processing of the LEP amendment in accordance with Council's LEP amendment process.

Risk and Insurance Implications:

There is minimal risk or insurance implications to Council with the processing of this amendment. The preparation of an amendment to LMLEP 2014 is a regular Council activity governed by the provisions of the *EP&A Act 1979*. The level of risk attached to this activity will be minimised through following the process as established by the *EP&A Act 1979* and Environmental Planning and Assessment Regulation 2000 as well as Council's Amending Local Environmental Plan Procedure and Policy.

Options:

1. The Director of City Strategy exercises his Delegation of Authority and exercises delegation from the Department of Planning and Environment to make the LEP on behalf of the Minister for Planning and Environment. This will help ensure zoning reflects current land use. This is the recommended option.
2. The Director of City Strategy direct staff to report the results of the exhibition process and the final Planning Proposal to Council for a resolution to make the plan. This is not the preferred option. A report to Council would delay the completion of the project.

Conclusion:

It is recommended that the Director of City Strategy endorse the Planning Proposal as contained in Attachment 1. Upon receipt of Parliamentary Counsel opinion, the

plan will be made pursuant to the Minister's delegated authority to rectify zone anomalies.

Endorsement

I endorse this report, in accordance with Delegations of Authority and exercise delegations to make the LEP on behalf of the Minister for Planning in accordance with section 59 of the *Environmental Planning and Assessment Act 1979*.

*Tony Farrell
Director City Strategy
Lake Macquarie City Council*

Date: 17 February 2017

Attachment 1 Planning Proposal – Toronto Road, Booragul (D08229380)

Attachment 2 Council Report (D07919686)

Attachment 3 Gateway Determination (D08142555)