

Lake Macquarie Local Environmental Plan 2014 - Amendment to part of lands at Toronto Road and Rens Street, Booragul

Proposal Title :	Lake Macquarie Local Environmental Plan 2014 - Amendment to part of lands at Toronto Road and Rens Street, Booragul		
Proposal Summary :	The amendment seeks to rezone 89 Toronto Road, Booragul from SP1 Special Activities to R2 Low Density Residential. It also seeks to rezone part of 87, 116 and 118 Toronto Road and 29 Rens Street, Booragul from SP2 Infrastructure to R2 Low Density Residential. It intends to apply a minimum lot size of 450 square metres to the applicable lands. The amendment also seeks to remove the land reservation acquisition layer from part of 29 Rens Street and 116 and 118 Toronto Road Booragul. The applicable lands are already developed and the rezoning is to rectify the zoning of the land and reflect the current and intended future use of the land.		
PP Number :	PP_2016_LAKEM_004_00	Dop File No :	16/14125

Proposal Details

Date Planning Proposal Received :	28-Oct-2016	LGA covered :	Lake Macquarie
Region :	Hunter	RPA :	Lake Macquarie City Council
State Electorate :	LAKE MACQUARIE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	87 and 89 Toronto Road		
Suburb :	Booragul	City :	Lake Macquarie
Land Parcel :	Lot 10 DP 1048813 and Lot 66 DP 592211		
Postcode :	2283		
Street :	29 Rens Street		
Suburb :	Booragul	City :	Lake Macquarie
Land Parcel :	Lot 10 SEC 6 DP 14421		
Postcode :	2283		
Street :	116 and 118 Toronto Road		
Suburb :	Booragul	City :	Lake Macquarie
Land Parcel :	Lot 8 SEC 6 DP 14421 and Lot 9 SEC 6 DP 14421		
Postcode :	2283		

**Lake Macquarie Local Environmental Plan 2014 - Amendment to part of lands at Toronto
Road and Rens Street, Booragul**

DoP Planning Officer Contact Details

Contact Name : **Claire Swan**
Contact Number : **0249042714**
Contact Email : **claire.swan@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Angel Troke**
Contact Number : **0249210298**
Contact Email : **a.troke@lakemac.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :
Contact Number : **0249042714**
Contact Email :

Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :

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 : **The objective of the planning proposal is to amend Lake Macquarie LEP 2014 to rectify the zoning of the applicable lands and reflect the current and intended future use of the site.**

This will be achieved by:

- rezoning 89 Toronto Road, Booragul from SP1 Special Activities to R2 Low Density Residential.
- rezoning part of 87, 116 and 118 Toronto Road and 29 Rens Street Booragul from SP2 Infrastructure to R2 Low Density Residential.
- applying a minimum lot size of 450 square metres to the applicable lands.

Lake Macquarie Local Environmental Plan 2014 - Amendment to part of lands at Toronto Road and Rens Street, Booragul

- removing the land reservation acquisition layer from part of 116 and 118 Toronto Road and 29 Rens Street, Booragul.

With regard to removing the land reservation acquisition layer, this land was initially rezoned for the purposes of road widening of Toronto Road associated with the Five Islands upgrade project and the Fennell Bay to Booragul corridor upgrade. As such, Lake Macquarie City Council has already formally consulted Roads and Maritime Services.

Roads and Maritime Services have advised Council there is no objection to the proposed rezoning of part of the applicable lands as it is considered there will be no significant impact on the nearby classified (State) road network. Council needs to be satisfied that NSW Roads and Maritime Services has no objection to the removal of the Land Reservation Acquisition layer from this land.

Consistency with S117 Direction 4.2 Mine Subsidence and Unstable Land, 4.4 Planning for Bushfire Protection and 6.2 Reserving land for public purposes will need to be determined following consultation with relevant agencies.

The planning proposal is minor in nature and is the most appropriate means of reflecting the current land use of the applicable lands. As such it should proceed subject to conditions detailed in this report.

It is important to note there are no changes required to the Height of Building Map. The existing building height of all areas is currently 8.5 metres.

External Supporting
Notes :

Adequacy Assessment

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

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

Comment : The objective of the Planning Proposal is to amend Lake Macquarie LEP 2014 to rectify the zoning of the applicable lands and reflect the current and intended future use of the site.

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

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

Comment : The objective of the planning proposal is to be achieved by:

- rezoning 89 Toronto Road, Booragul from SP1 Special Activities to R2 Low Density Residential, as identified on the Proposed Land Zoning Map.
- rezoning part of 87, 116 and 118 Toronto Road and 29 Rens Street Booragul from SP2 Infrastructure to R2 Low Density Residential, as identified on the Proposed Land Zoning Map.
- applying a minimum lot size of 450 square metres to the applicable lands, as identified on the Proposed Minimum Lot Size Map.
- removing the land reservation acquisition layer from part of 116 and 118 Toronto Road and 29 Rens Street, Booragul as identified on the Land Reservation Acquisition Map.

The explanation of provisions is considered adequate.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.3 Mining, Petroleum Production and Extractive Industries

* May need the Director General's agreement

2.2 Coastal Protection

3.1 Residential Zones

**Lake Macquarie Local Environmental Plan 2014 - Amendment to part of lands at Toronto
Road and Rens Street, Booragul**

- 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
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

SEPP No 14—Coastal Wetlands
SEPP No 19—Bushland in Urban Areas
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Mining, Petroleum Production and Extractive Industries) 2007

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

The Hunter Regional Plan 2036 was released on 14 October 2016. Consequently, section 117 Direction 5.10 Implementation of Regional Plans applies to the proposal (in addition to 5.1 Implementation of Regional Strategies). The planning proposal was completed prior to the release of the Hunter Regional Plan 2036 and therefore justification against this Direction 5.10 has not been provided.

It is considered that the proposal is consistent with the vision, land use strategy, goals, directions and actions of the Hunter Regional Plan 2036 and therefore consistent with the Section 117 Direction.

Council should update the planning proposal to refer to S117 Direction 5.10 Implementation of Regional Plans.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

The planning proposal provides an assessment of its consistency against the applicable State Environmental Planning Policies and Section 117 Directions.

SEPP 55 Remediation of Land

Clause 6 of the SEPP requires contamination and remediation to be considered in zoning or rezoning proposals. No development is proposed as a result of the amendment to the land zoning, minimum lot size and land reservation acquisition layer. However, Council has advised a Phase 1 Contaminated Lands Assessment has been prepared to address the requirements of the SEPP 55. Any prospective development on the site would however be subject to further requirements of the SEPP 55.

SEPP 71 - Coastal Protection

Council has advised the site is within the coastal zone. The proposed amendments to the land zoning, minimum lot size and land reservation acquisition layer are intended to rectify an anomaly and no development is proposed as a result of the planning proposal. The proposal is considered minor in nature and therefore does not impact matters for consideration under SEPP 71.

SEPP (Housing for Seniors or People with a Disability) 2004

Council has advised that the site provides accommodation and care for seniors. No development is proposed as a result of the planning proposal however, future development of the site may occur under the design considerations of this SEPP.

SEPP (Infrastructure) 2007

Council has advised no development is proposed as a result of the planning proposal. Roads and Maritime Services has advised that they have no objection to the proposal as it will have no significant impact on the nearby classified (State) road network. SEPP

(Infrastructure) 2007 enables the provision of services across NSW. The proposal does not impact on the provisions of SEPP (Infrastructure) 2007.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The applicable lands are located within a Mine Subsidence District. The proposed amendments to the land zoning, minimum lot size and land reservation acquisition layer are intended to rectify an anomaly and no development is proposed as a result of the planning proposal. The proposal is considered minor in nature and does not impact matters for consideration under SEPP (Mining, Petroleum Production and Extractive Industries) 2007.

Section 117 Directions

The planning proposal is consistent with S117 Directions with several exceptions. Consistency with the following S117 Directions will need to be determined following consultation with the relevant agencies:

4.2 Mine Subsidence and Unstable Land

The applicable lands are located within a Mine Subsidence District. Consultation with the Mine Subsidence Board will be required to determine consistency with this Direction.

4.4 Planning for Bushfire Protection

Council has advised part of the applicable lands are bushfire prone. Consultation with Rural Fire Service will be required to determine consistency with this Direction.

6.2 Reserving Land for Public Purposes.

Council has advised the proposal will facilitate the removal of reservations of land for public purposes. The applicable lands being 29 Rens Street and 116 and 118 Toronto Road, Booragul, will be rezoned for residential and the acquisition layer removed.

NSW Roads and Maritime Services has been consulted and has no concerns with the rezoning. However, Council needs to be satisfied that the lands are no longer required to be reserved for public purposes. It is considered that further consultation regarding the removal of the applicable lands from the Land Reservation Acquisition Map is required in order to determine consistency with this Direction.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : Council has provided:

- Existing Land Zoning, Minimum Lot Size and Land Reservation Acquisition Maps.
- Proposed Land Zoning, Minimum Lot Size and Land Reservation Acquisition Maps.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council proposes a 14 day exhibition period. This is supported, however Government agency consultation will need to be 21 days.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons : Timeline:
Council anticipates notification of the plan in late 2016, however this is not achievable. A 6 month time frame is considered sufficient time to make the plan, particularly given the time of year and the mandatory close down periods for organisations.

Lake Macquarie Local Environmental Plan 2014 - Amendment to part of lands at Toronto Road and Rens Street, Booragul

Delegations:

Council has requested delegations to make the plan. This is supported.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Lake Macquarie Local Environment Plan 2014 commenced 10 October 2014.**

Assessment Criteria

Need for planning proposal :

Council has advised the planning proposal is in response to zoning that is inconsistent with the current and future intended use of the applicable lands.

87 and 89 Toronto Road Booragul have been used for residential aged care for over 40 years. 87 Toronto Road, Booragul is zoned partly R2 Low Density Residential and SP2 Infrastructure. 89 Toronto Road, Booragul is zoned wholly SP1 Special Activities. Seniors living is not permissible in the SP1 Special Activities and SP2 Infrastructure zones.

The planning proposal will therefore allow for the ongoing use of the existing aged care site and allow for any necessary upgrades required for the current facility.

The lands at 29 Rens Street and 116 and 118 Toronto Road, Booragul, are currently split zoned R2 Low Density Residential and SP2 Infrastructure. The proposal intends to rezone these lands to residential to reflect their current use. The land reservation acquisition layer will also be removed from part of these lots.

Consistency with strategic planning framework :

Lower Hunter Regional Strategy (LHRS)

The proposed rezoning will confirm the existing use of the applicable lands and allow for effective ongoing management for residential aged care facility that has been on the site for over 40 years. No development is proposed as a result of this planning proposal. The proposal is therefore considered minor in nature and consistent with the Lower Hunter Regional Strategy.

Hunter Regional Plan 2036 (HRP2036)

The proposed rezoning will confirm the existing use of the applicable lands and allow for effective ongoing management for residential aged care facility that has been on the site for over 40 years. No development is proposed as a result of this planning proposal. The proposal is therefore considered minor in nature and consistent with the Hunter Regional Plan 2036.

Lifestyle 2030 Strategy (LS2030)

Council has advised 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. It also is in close proximity to Booragul train station.

Environmental social economic impacts :

ENVIRONMENTAL IMPACTS:

Council has identified the planning proposal does not impact on threatened species, populations or ecological communities of the habitat. The applicable lands are already developed and the proposal to rezone reflects the current land use. There are no other likely environmental effects as the proposal is administrative only and will not alter

development outcomes.

SOCIAL AND ECONOMIC IMPACTS:

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

INFRASTRUCTURE PROVISION:

The applicable lands are already developed and the rezoning reflects the current land use. The area is already serviced with all necessary public infrastructure in place.

OTHER MATTERS - RESERVATION OF LAND FOR PUBLIC PURPOSES:

NSW Roads and Maritime Services advised that 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. Council consulted Roads and Maritime Services (RMS) who raised no objection to the proposed rezoning of part of the applicable lands as it considered there would be no significant impact on the nearby classified (State) road network.

RMS did not advise in the correspondence to Council that the lands were no longer required for road widening purposes and that the acquisition layer can be removed. Formal consultation will need to occur with Transport for NSW - Roads and Maritime Services to determine consistency with S117 Direction 6.2 Reserving Land for Public Purposes.

Formal consultation will also need to occur with the NSW Rural Fire Service and Mine Subsidence Board in order to determine consistency with the relevant SEPPs and S117 Directions.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **Mine Subsidence Board
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

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 :

Nil

Identify any internal consultations, if required. :

No internal consultation required

Lake Macquarie Local Environmental Plan 2014 - Amendment to part of lands at Toronto Road and Rens Street, Booragul

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Report - 16STRAT038 - Planning Proposal - Toronto Road, Booragul - City Strategy Committee - 10 October 2016#2.pdf	Proposal	No
Planning Proposal - 87 and 89 Toronto Road Booragul#4.pdf	Proposal	No
Request for Gateway Determination - Letter to Department of Planning and Environment ~ Booragul#4.pdf	Proposal Covering Letter	No
RMS Response to rezoning of land at Toronto Road, Booragul#4.pdf	Proposal Covering Letter	No

Planning Team Recommendation

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

S.117 directions:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 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
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information : The planning proposal should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, update the planning proposal to refer to S117 Direction 5.10 Implementation of Regional Plans.
2. Community Conclusion is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 as follows:
 - a. the planning proposal must be made publicly available for a minimum of 14 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 & Environment 2016).
3. Consultation is required with the following public authorities under section 56(2)(d) of the Environmental Planning and Assessment Act 1979 and/or to comply with the requirements of relevant S117 Directions:
 - a. Transport for NSW - Roads and Maritime Services (S117 Direction 6.2 Reserving Land for Public Purposes).
 - b. NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)
 - c. Mine Subsidence Board (S117 Direction 4.2 Mine Subsidence and Unstable Land).

The public authorities are to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Once consultation is undertaken with the relevant public authorities, and information is provided, Council is to update its consideration of S117 Directions.

4. A public hearing is not required to be held into the matter by any person or body

Lake Macquarie Local Environmental Plan 2014 - Amendment to part of lands at Toronto Road and Rens Street, Booragul

Supporting Reasons :	under section 56(2)(e) of the Environmental Planning and Assessment Act 1979. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing.
	5. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.
	The planning proposal is the most appropriate means of reflecting the current land use of the applicable lands.
	Further consultation will need to occur with Transport for NSW - Roads and Maritime Services to ensure Council is satisfied that the applicable lands at 29 Rens Street and 116 and 118 Toronto Road Booragul are no longer needed for road widening purposes. Council will need to update the planning proposal following consultation with relevant agencies to determine consistency with relevant S117 Directions.
Signature:	
Printed Name:	G P HOPKINS Date: 23 November 2016

