

Our ref: PP\_2013\_LAKEM\_010 (13/11470)  
Your ref: RZ8/2013

Mr Brian Bell  
General Manager  
Lake Macquarie City Council  
Box 1906  
HUNTER REG MAIL CTR NSW 2310

Attention: Grant Alderson

Dear Mr Bell

**Planning Proposal to amend Lake Macquarie Local Environmental Plan 2004 or Draft Lake Macquarie LEP 2013**

I refer to Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ('EP&A Act'), in respect of the planning proposal to rezone land at 1A First St Boolaroo for residential purposes.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed, subject to the conditions in the attached Gateway determination.

Prior to exhibition Council is to investigate and document the proposal's compliance with State Environmental Planning Policy No. 55 Remediation of land (SEPP 55), given that the current contamination and remediation plans may not have contemplated residential use of this land. This information is to be updated in the planning proposal.

Council's planning proposal appears to have an incorrect reference to "Clause 7.1.5(2)" on page 2 and the proposal may benefit from a brief description of the effect of Schedule 8 and 9 LMLEP 2004 in the explanatory note on page 2.

As delegate of the Director General I have agreed that the planning proposal's inconsistency with s117 Direction's 1.1 Business and Industrial zones and 4.1 Acid Sulfate Soils is of minor significance. In relation to s117 Directions 1.3 Mining Petroleum Production and Extractive Industries and 4.2 Mine Subsidence and Unstable Land, consultation with the relevant agencies is required before consistency or otherwise can be determined.

The Minister delegated his plan making functions to councils in October 2012. I have considered the nature of Council's planning proposal, and the SEPP 55 issue which requires further documentation, and have decided not to issue an authorisation for Council to exercise delegation to make this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department to draft and finalise the LEP should be at least 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any questions regarding this matter, please contact Ken Phelan of the Department's Newcastle office, on 4904 2705.

Yours sincerely

  
Michael Leavey  
**Regional Director** 13/8/13  
**Hunter and Central Coast Region**

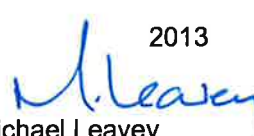
# Gateway Determination

**Planning proposal (Department Ref: PP\_2013\_LAKEM\_010):** to rezone Lot 1 DP 225720, at 1A First St Boolaroo for residential purposes.

I, the Regional Director of the Hunter & Central Coast Region at the Department of Planning and Infrastructure, as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Lake Macquarie Local Environmental Plan 2004 or draft Lake Macquarie LEP 2013 to rezone land at 1A First St Boolaroo for residential purposes should proceed subject to the following conditions:

1. Prior to exhibition Council is to investigate and document the proposal's compliance with State Environmental Planning Policy No. 55 Remediation of land (SEPP 55). This information is to be updated in the planning proposal.
2. Consultation is required with the following public authorities, prior to public exhibition, under section 56(2)(d) of the EP&A Act:
  - Office of Environment and Heritage- Environment Protection Authority (SEPP 55)The public authority is 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.
3. Consultation is required with the following public authorities, prior to public exhibition to comply with the requirements of relevant S117 Directions:
  - NSW Trade and Investment – Minerals and Petroleum (s117 direction 1.3 Mining, Petroleum Production and Extractive Industries)
  - Mine Subsidence Board (s117 direction 4.2 Mine Subsidence and Unstable Land)Each public authority is 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.
4. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
  - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)* and must be made publicly available for a minimum of **14 days**; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
5. 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 a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 13<sup>th</sup> day of August 2013

  
Michael Leavey  
**Regional Director**  
**Hunter & Central Coast Region**  
**Department of Planning and Infrastructure**

**Delegate of the Minister for Planning and Infrastructure**