

City Strategy Committee Meeting - Monday 5 July 2010

10STRAT022 Draft (Administrative) Amendment to LMLEP 2004 - Sustainable Generating Works

Council Ref: F2010/00104 - D01810311
Report By: Strategic Planner - Angel Troke

Précis:

Council resolved on 24 May 2010 (10STRAT013) to proceed with an administrative amendment to Council's LEP that covered a range of minor matters. As part of this amendment, 'sustainable generating works' were to be included in the range of uses permissible within the 5 Infrastructure zone. It has subsequently been identified that such works should also be permissible in a greater range of zones in line with Council's sustainability and climate change objectives. Council's resolution is required to amend the initial planning proposal.

This report seeks Council's endorsement to proceed with a revised planning proposal to allow 'sustainable generating works' in the 5 Infrastructure zone, as well as the 4(2) Industrial (General), 4(3) Industrial (Urban Services), and 6(1) Open Space zones to facilitate renewable energy technologies in the Lake Macquarie Local Government Area. This amendment would then proceed as a stand-alone amendment.

Recommendation:

Council resolves to forward the planning proposal shown in Attachment 1 to the NSW Department of Planning for determination and undertake the necessary steps to proceed with this amendment.

Background:

Council resolved to forward a planning proposal to the Department of Planning in relation to an administrative amendment to Council's LEP on the 24 May 2010 (10STRAT013). This amendment dealt with a range of minor amendments of an administrative nature such as banners on street side poles, new local heritage items, minor rezoning of land, and zone boundary adjustments. Part of this administrative amendment also sought to allow 'sustainable generating works' in the 5 Infrastructure zone.

Sustainable generating works are defined as a 'building or place used for the purpose of generating electricity using energy derived from water, wind or sun'. Currently 'sustainable generating works' are permissible with consent in the 1(1) Rural Production, 4(1) Industrial (Core), and 9 Natural Resource zones.

Following Council's initial resolution of 24 May 2010, the Integrated Planning department identified that 'sustainable generating works' should also be permissible within a greater range of zones in the LEP to facilitate renewable energy technologies. This would allow Council and the community to work towards meeting sustainability and climate change objectives such as Council's 10:10 Challenge which aims to reduce our impact in 2010 by 10%. Sustainable generating works in addition to the 5 Infrastructure zone, would also be suitable in the 4(2) Industrial (General), 4(3) Industrial (Urban Services), and the 6(1)

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Open Space zones. This use is consistent with the objectives of these zones and would allow Council to utilise renewable energy technologies on Council land in the 6(1) Open Space zone to power community facilities.

The amendment to allow 'sustainable generating works' will be treated as a separate stand-alone amendment. The amendment has been separated from the general administrative amendment, which Council resolved to proceed with on 24 May 2010 (10STRAT013). The general administrative amendment, which covers a broad range of minor amendments, has been forwarded to the Department of Planning for Gateway Determination with the 'sustainable generating works' item excluded.

If Council resolves to proceed with the planning proposal to allow 'sustainable generating works', the proposal would be forwarded to the Department of Planning for Gateway Determination. If the Department of Planning agrees that the proposal should be investigated further, they will advise Council of the government agencies to be consulted, the community consultation process, and the timeframes to be followed.

Proposal:

It is proposed that Council proceed with the amendment to LMLEP 2004 to allow 'sustainable generating works' as outlined in the planning proposal contained within Attachment 1. Following Council's resolution to proceed, the planning proposal would be forwarded to the Department of Planning for Gateway Determination under the provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Consultation:

The Department of Planning, as part of the Gateway Determination, will identify the consultation requirements for this amendment. Initial consultation has occurred with Development Assessment and Compliance, Community Planning, Economic Development, and Sustainability departments, and further consultation will occur as the proposal progresses. Further consultation will occur with Council staff and other relevant agencies in accordance with section 56 of the EP&A Act. The public exhibition of this amendment will provide an opportunity for the community to comment on the proposed amendments.

Implications:

Policy Implications:

The proposal will amend LMLEP 2004 to allow sustainable generating works in the 5 Infrastructure, 4(2) Industrial (General), 4(3) Industrial (Urban Services), and 6(1) Open Space zones. The addition of this use within the zones is considered consistent with the zone objectives of LMLEP 2004. The planning proposal is considered consistent with Council's Lifestyle 2020 Strategy, the Lower Hunter Regional Strategy, relevant section 117 Ministerial Directions, and State Environmental Planning Policies. Further detail on the proposal's consistency with these policies is contained in Attachment 1.

Environmental Implications:

Positive environmental impacts are anticipated as a result of the LEP amendment by allowing renewable energy generation in a greater range of zones. However, any potential negative impacts associated with the installation of sustainable generation structures, such as noise and visual impacts, would be assessed as part of the development application process.

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Social Implications:

The amendment is administrative in nature and would have minimal social impacts. Potential social impacts resulting from sustainable generating works, such as visual and noise impacts, would need to be assessed as part of the development application process. The proposal will create greater opportunities for the renewable energy sector providing positive social and economic impacts.

Financial Implications:

There will be no financial implications as a result of the proposed LEP amendment, however staff resources from Integrated Planning would be required to carry out the amendment. Positive economic impacts may be generated by the amendment as it will provide greater opportunities for the renewable energy sector in the Lake Macquarie Local Government Area.

Risk and Insurance Implications:

The amendment will be prepared according to the provisions of the EP&A Act and associated regulations. Advising the Department of Planning of the proposed amendments is a requirement of the EP&A Act. There are no insurance or risk implications as the amendment will be processed in accordance with Council Procedures and the EP&A Act.

Options:

1. Council supports the proposed amendment to LMLEP 2004 as outlined in Attachment 1. This is the preferred option.
2. Council does not support the proposed amendment. This is not the preferred option.

Conclusion:

It is recommended that Council support the amendment to LMLEP 2004 contained within Attachment 1 to this report, to allow 'sustainable generating works' in the 4(2) Industrial (General), 4(3) Industrial (Urban Services), 5 Infrastructure, and 6(1) Open Space zones. This will promote renewable energies in the Lake Macquarie Local Government Area through introducing this use in a greater range of zones.

Acting Manager – Integrated Planning – Iain Moore

Manager - Integrated Planning - Sharon Pope

Attachments:

1. Planning Proposal - Sustainable Generating Works D01810208

Planning Proposal

Administrative Amendment to LMLEP 2004 (Sustainable Generating Works)

Local Government Area	Lake Macquarie City
Name of Draft LEP:	Lake Macquarie Local Environmental Plan 2004 (Administrative Amendment)

Part 1 – Objective of the Planning Proposal

To include in Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) provisions regarding sustainable generating works.

Part 2 – Explanation of the Provisions

The amendment proposes the following minor changes to LMLEP 2004:

Amendment Applies To	Explanation of the Provision
Clause 15 – General controls for land within zones	‘Sustainable Generating Works’ is proposed to be included in the land use table as development requiring consent in the 5 Infrastructure, 6(1) Open Space, 4(2) Industrial (General) and 4(3) Industrial (Urban Services) zones. The inclusion of Sustainable Generating Works in the 5 Infrastructure, 6(1) Open Space, 4(2) Industrial (General) and 4(3) Industrial (Urban Services) zones will provide for the installation of sustainable energy generation plants, such as wind turbines in these zones. Previously, only traditional forms of energy generation works were permissible within the 5 Infrastructure zone and no such works were permissible in the 6(1) Open Space, 4(2) Industrial (General) and 4(3) Industrial (Urban Services) zones. The addition of this use in these zones is considered consistent with the objectives of these zones.

Part 3 – Justification for the Provisions*1. Is the planning proposal a result of any strategic study or report?*

The amendment will allow sustainable generating works in a greater number of zones and is in alignment with the Discussion Papers issued by the Department of Planning (the DoP) for Renewable Energy Generation – Small Wind Turbines and Solar Power, which have recently been on exhibition to facilitate sustainable energy production.

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

The Discussion Papers for Renewable Energy Generation – Small Wind Turbines and Solar Power propose complying and exempt development provisions for small wind turbines and solar energy electricity works. The planning proposal will amend Lake Macquarie Local Environmental Plan to make 'Sustainable Generating Works' permissible with consent in the 5 Infrastructure, 6(1) Open Space, 4(2) Industrial (General) and 4(3) Industrial (Urban Services) zones.

3. Is there a net community benefit?

The proposal will provide a form of sustainable energy generation and will result in an overall net community benefit.

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

The Lower Hunter Regional Strategy outlines Sustainability Criteria that rezoning proposals should adhere to in the region. In respect of natural resources, the Lower Hunter Regional Strategy identifies limits should not be exceeded, environmental footprints should be minimised, and the demand for energy should not place unacceptable pressure on infrastructure capacity. Whilst the amendment is administrative in nature, these principles will be adhered to by allowing sustainable energy generation.

5. Is the planning proposal consistent with the local council's community strategic plan, or other local strategic plan?

Council's Lifestyle 2020 Strategy provides the long-term direction for the overall development of the City and is a tool for managing private and public development in Lake Macquarie. This planning proposal is consistent with the aims of the Lifestyle 2020 Strategy by maximising opportunities for environmental enhancement and sustainability.

6. *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). The amendment proposes the inclusion of 'Sustainable Generating Works' in the land use table as development requiring consent in the 5 Infrastructure, 6(1) Open Space, 4(2) Industrial (General) and 4(3) Industrial (Urban Services) zones.

SEPP	Objective	Consistent	
SEPP (Infrastructure) 2007	Aims to more efficiently facilitate the delivery of infrastructure through the establishment of consistent planning provisions for infrastructure and services.	Yes	The Discussion Paper on Renewable Energy Generation - Solar Power if adopted, would update existing solar power provisions in SEPP (Infrastructure) 2007. The planning proposal is consistent with the provisions proposed by the discussion paper by allowing 'Sustainable Generating Works' in a greater range of zones in Lake Macquarie Local Environmental Plan 2004.
SEPP (Exempt and Complying Development Codes) 2008	Aims to provide streamlined assessment processes for development that complies with specified development standards	Yes	The Discussion Paper on Renewable Energy Generation - Small Wind Turbines if adopted would update existing windmill provisions in SEPP (Exempt and Complying Development Codes) 2008. The planning proposal is consistent with the provisions proposed by the discussion paper by allowing 'Sustainable Generating Works' in a greater range of zones in Lake Macquarie Local Environmental Plan 2004.

7.

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

The planning proposal is considered consistent with all relevant Ministerial Directions. The proposal will allow 'Sustainable Generating Works' with consent in the 5 Infrastructure, 6(1) Open Space, 4(2) Industrial (General) and 4(3) Industrial (Urban Services) zones and will not alter any zone boundaries.

Relevant section 117 Directions include:

- 1.1 - Business and Industrial Zones as 'sustainable generating works' will be made permissible in the Industrial zones, however the amendment is minor in nature and consistent with this direction.
- 6.3 – Site Specific Provisions as the amendment will allow sustainable generating works to be carried out, however the proposal is considered consistent with this direction, as it will allow this use in a number of zones.

8. *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 proposal?*

There will be no potential for loss of vegetation deemed environmentally valuable as a result of the proposal. Any environmental impacts as a result of proposals for 'Sustainable Generating Works' would be assessed as part of the development application process.

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

Positive environmental effects are anticipated as a result of the proposal by allowing renewable energy generating uses in a greater range of zones. However, any potential negative impacts associated with the installation of 'Sustainable Generating Works' such as noise and visual impacts would be assessed as part of the development application process.

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

Potential social impacts associated with 'Sustainable Generating Works' such as visual and noise impacts would need to be assessed as part of the development application process. The proposal will create greater opportunity for the renewable energy sector providing positive social and economic impacts.

11.

Is there adequate public infrastructure for the planning proposal?

The proposal does not warrant changes to the delivery of public infrastructure to the area. The amendment will allow the generation of renewable energy.

12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

The requirement for consultation with State and Commonwealth public authorities will be undertaken if directed by the DoP.

Part 4 – Details of Community Consultation

There has been no previous public consultation regarding this planning proposal. Council will consult with the public as directed by the DoP, however Council wishes for this amendment to proceed in a timely manner.