

**City Strategy Committee Meeting
14 August 2017**

City Strategy Committee Meeting - Monday 14 August 2017

17STRAT036 Amendments to the Land Reservation Acquisition Maps in the Lake Macquarie Local Environmental Plan 2014 - Mount Hutton

Council Ref: RZ/5/2016 - D08368982
Report By: Strategic Planner - Hannah Benson

Précis:

As an outcome of a new Development Contributions Plan for Charlestown, staff have been reviewing the Land Reservation Acquisition (LRA) Map in *Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)*, specifically, the Mount Hutton locality. The review has determined that certain land currently identified for acquisition by Council for drainage and a road connection is no longer required.

This matter was previously reported to Council on 13 March 2017 (17STRAT006). Council resolved that further information was required prior to requesting the Gateway Determination.

This report seeks Council's support for a Planning Proposal to amend the LRA Map and make associated changes to *LMLEP 2014* and Lake Macquarie Development Control Plan 2014 (LMDCP 2014). If supported, the Planning Proposal will be forwarded to the Department of Planning and Environment (DoPE) for a Gateway Determination.

Recommendation:

Council:

- A. Requests a Gateway determination from the Department of Planning and Environment in relation to the Planning Proposal at Attachment 1 relating to land near the Mount Hutton Town Centre.
- B. Places the Planning Proposal on exhibition, subject to the outcome of the Gateway determination; and
- C. Places an amendment to Lake Macquarie Development Control Plan 2014 (LMDCP 2014), to amend the Mount Hutton Town Centre Area Plan. as shown in Attachment 2, on public exhibition concurrently with the aforementioned Planning Proposal.
- D. Notifies stakeholders and affected landowners of the Gateway determination and public exhibition of the Planning Proposal and draft amendments to LMDCP 2014.

Background:

This matter was previously reported to Council on 13 March 2017 (17STRAT006). Council resolved that further information was required prior to requesting the Gateway Determination and that a response be prepared on matters raised in the public access made by the owners of 85 Tennent Road, Mount Hutton at the meeting. A memo

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containing a response to the public access and further information was provided to Councillors on 28 April 2017. A copy of that memo is provided in Attachment 3.

The Planning Proposal at Attachment 1 has been amended to address the concerns raised at the meeting of 13 March 2017.

Land Reservation Acquisition (LRA) Maps

The intention of the LRA Maps in *LMLEP 2014* is to help Council and various government authorities secure land needed to deliver public amenities and infrastructure. Clause 5.1A of the *LMLEP 2014* limits development on land that is to be acquired for a public purpose (i.e. land shown on the LRA Map), so that consent can only be granted for that public purpose. For example, land affected by the LRA Map and marked as 'local road' can only receive development approval for a 'road'.

Identifying land on the LRA maps creates an acquisition requirement for the relevant acquisition authority. Under section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991*, the relevant acquisition authority must acquire land if the landholder can demonstrate they will suffer hardship due to delays in land acquisition. It is therefore essential that land identified on the LRA map correctly reflects current known needs for public amenities and infrastructure.

Catchment Investigation and Concept Design Report for Mount Hutton Section 94 Contribution Plan

The existing LRA Map identifies approximately two thirds of the property described as 85 Tennent Road, Mount Hutton for purchase. Council already owns adjacent properties at 83A and 89 Tennent Road. Council intended to capture and store stormwater runoff from the surrounding area on 83A, 85 and 89 Tennent Road.

The Catchment Investigation and Concept Design Report for Mount Hutton Section 94 Contribution Plan 2013 (Catchment Investigation) proposed drainage works, including detention basins and trunk drainage upgrades across Mount Hutton to help ease drainage problems.

Jewells Floodplain Risk Management Study and Plan - Final Report - July 2017

Council adopted the Jewells Wetland Flood Study in 2013 (13FM004). The Jewells Wetland Floodplain Risk Management Study and Plan follows on from the Flood Study. The Jewells Wetland Floodplain Risk Management Study and Plan evaluates and recommends options to manage the risks of flooding in the catchment and was exhibited to the public for comment from 26 May to 25 July 2016.

Council staff received the Jewells Wetland Floodplain Risk Management Study and Plan Final Report in early July 2017 and it will be reported to Council after it has been considered by the Coastal Zone Management Committee. The Jewells Wetland Floodplain Risk Management Study and Plan has been updated to include the most recent Australian Rainfall and Runoff guidelines released in November 2016. Use of the new guidelines has had no impact on flood planning levels (the 1% AEP flood extent) in the study area and will not change the recommended flood management actions from the draft Study and Plan previously reported to Council and publicly exhibited in 2016.

The Jewells Wetland Floodplain Risk Management Study and Plan shows that the drainage upgrades proposed in the Catchment Investigation have a high cost and low benefit when compared to other flood management options. The upgrades would do little to reduce the risk to flood affected properties in the Jewells catchment.

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There is no funding identified for the drainage works proposed on 83A, 85 and 89 works at present. If drainage works were deemed necessary in the future, the Catchment Investigation indicates they could be constructed within land already owned by Council at 89 Tennent Road, so the acquisition of 85 Tennent Road is unnecessary. For this reason, it is proposed that 85 Tennent Road be removed from the LRA Maps.

Proposed rehabilitation and remediation works in Scrubby Creek will not alter the 1% AEP flood extent

The NSW Department of Industry – Soil Conservation Service prepared a Geomorphic Assessment for Scrubby Creek in March 2017. The Assessment recommends how to manage willow trees and other weeds along the creek, as well as how to manage erosion and sedimentation through physical works. The recommendations from the Assessment will guide future rehabilitation works in Scrubby Creek.

The works recommended by the Geomorphology Assessment are likely to make a difference to the flood extent during frequent, smaller scale events, however, the whole floodplain will continue to fill during the larger and less frequent 1% AEP event.

Residents near Scrubby Creek in Mount Hutton have suggested that extending the concrete channel adjacent to Lake Macquarie Fair further down the creek will reduce the 1% flood extent. The Flood Impact Assessment prepared by BMT WBM in June 2017, (copy attached to the Planning Proposal in Attachment 1) shows that extending the concrete drain at Scrubby Creek would only reduce flood levels by a maximum of 30mm in a 1% AEP flood event in some parts of the Creek. Therefore, the Jewells Wetland Floodplain Risk Management Study and Plan and the Geomorphic Assessment do not recommend extending the concrete channel.

Charlestown Contribution Catchment Plan Traffic and Transport Study

The Charlestown Contribution Catchment Plan Traffic and Transport Study, May 2015 (The Study) was prepared to inform the preparation of the Development Contributions Plan for the Charlestown contributions catchment (which includes Mount Hutton). The Study looks at the traffic and transport infrastructure needs of the catchment based on traffic and population projections to the year 2025.

In the past, a 268m extension of Willow Road, including a bridge and intersections at Tennent Road and Wilsons Road, was proposed to manage future traffic generation as development occurs. The estimated construction costs exceed \$6.5 million. Costs of land acquisition would be additional to that sum.

The Study found that the Willow Road extension would decrease vehicle travel time between Willow Road and South Street / Wilsons Road by 1.5 minutes. The vehicle travel time saved by the Willow Road extension was not considered to justify the estimated cost of the works. The alternative and preferred option recommended by the Study is to upgrade the existing intersection at Merrigum Street and South Street to traffic lights, which will keep intersection delays to an acceptable level. The Charlestown Contributions Plan anticipates that the upgrade will be required in 2018 at an estimated cost of \$2.47 million.

As a result of these findings, the Study recommends removing the Willow Road extension from the LRA Map layer in the *LMLEP 2014*. The Development Contributions Plan for the Charlestown Catchment provides funding for the upgrade of the Merrigum Street and South Street intersection in 2018.

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Proposal:

The Planning Proposal contains amendments to *LMLEP 2014* resulting from the LRA Map layer review in Mount Hutton as outlined below.

85 Tennent Road

It is proposed to remove land at 85 Tennent Road outside the 1% Annual Exceedance Probability (AEP) flood extent from the LRA Map. The land that is removed from the LRA Map layer will be rezoned from RE1 to R3 Medium Density Residential, consistent with surrounding land.

Scrubby Creek

The existing LRA Maps show that Council intends to acquire privately owned land at the rear of 72 and 74 Wilsons Road adjacent to Scrubby Creek for 'public open space'. It is proposed to leave the LRA layer on land adjacent to Scrubby Creek, but to amend the boundary of the LRA mapping so that it better reflects the 1% AEP flood extent. This will ensure that Council does not acquire developable land, while also ensuring that land within the 1% AEP flood extent is not zoned for development.

The acquisition would also permit a future connection from Willow Road to a potential shared path along Scrubby Creek. Both the Mount Hutton Town Centre Plan and the Mount Hutton Precinct Plan in LMDCP 2014 show a proposed shared pathway adjacent to Scrubby Creek. A well-worn dirt track on the southern side of Scrubby Creek indicates the desire of the local community to walk to the shops along the Creek. The acquisition would permit a future connection from Willow Road to the proposed shared path.

Willow Road extension

It is proposed to remove land associated with the Willow Road extension (shown across 74 Wilsons Road, Mount Hutton) from the LRA Map layer. This land, currently zoned R2 Low Density Residential, will be rezoned to be consistent with the adjoining land use zones.

The proposed amendments to the Mount Hutton Town Centre Area Plan (Section 10.6 of LMDCP 2014) are largely related to the above amendments to *LMLEP 2014*. Additional minor changes to the Area Plan are proposed to address various matters, with the comments outlining the justification for the changes contained within Attachment 2 to this report.

Consultation:

The Planning Proposal has been prepared in consultation with Council's Rezoning Advisory Panel, as well as the Community Planning, Development Assessment and Compliance (DAC), Asset Management, Property & Business Development, and Sustainability departments of Council.

Asset Management comments

No objections and all requirements incorporated into the proposal.

Community Planning

No objections and all requirements incorporated into the proposal.

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Sustainability

Sustainability's preference is for flood-free land on 85 Tennent Road to be rezoned to R2 Low Density Residential due the lack of street frontage and constraints associated with the adjoining flood prone land. However, Integrated Planning staff have proposed to zone this land R3 Medium Density Residential consistent with adjoining residential zoned land.

Development Assessment and Compliance (DAC)

A pre-lodgement relating to 74 Wilsons Road, Mount Hutton was held in June 2016 (PL/83/2016) however, the proponent is waiting on the outcome of Council's deliberations regarding the Willow Road extension before progressing any further.

Community Consultation

Consultation with the broader community would occur in accordance with any Gateway Determination.

Implications:

Policy Implications:

Hunter Regional Plan 2036

The Hunter Regional Plan identifies Mount Hutton as a centre of local significance. The Planning Proposal is consistent with the Hunter Regional Plan by promoting business and medium density housing development near Mount Hutton Town Centre.

Lifestyle 2030

The Planning Proposal is consistent with the aims and objectives of LS2030. Outcome 3.5 envisages that Mount Hutton will grow into a 'comprehensive town centre with a mix of commercial services, retail, community facilities, and residential development'. 72 and 74 Wilsons Road are large, mostly vacant sites with the potential for infill commercial, retail, medium density residential, seniors living, and community or recreational development. The infill development of these sites is consistent with the LS2030 vision for Mount Hutton to grow into a comprehensive town centre with a mix of uses.

SEPPs

The planning proposal is generally consistent with State Environmental Planning Policies.

Section 117 Ministerial Directions

The planning proposal is consistent with all relevant section 117 directions.

Lake Macquarie Local Environmental Plan (LMLEP) 2014

The planning proposal proposes changes to the LRA Map and the Land Zoning Map under *LMLEP 2014*. When the Land Zoning Map is changed, there are associated changes to the Height of Building Map and the Lot Size Map.

Lake Macquarie Development Control Plan (LMDCP) 2014

The proposed changes to *LMLEP 2014* trigger the need for corresponding changes to LMDCP 2014, particularly as a result of removing Willow Road extension from the LRA map. Proposed amendments to Mount Hutton Town Centre Area Plan are summarised in Attachment 2.

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The LEP Amendment will also require changes to the Mount Hutton Precinct Plan, particularly in relation to the potential development of 85 Tennent Road once rezoned from RE1 Public Recreation to R3 Medium Density Residential. Amendments to the Mount Hutton Precinct Plan will also show how the proposed shared pathway on Scrubby Creek will link to other walking and cycling infrastructure in Mount Hutton.

The Mount Hutton Precinct Plan is currently being comprehensively reviewed. It is anticipated a revised Mount Hutton Precinct Plan, including the amendments relating to this LEP Amendment, will be reported to Council later this year.

Environmental Implications:

The LEP Amendments proposed as part of the LRA Map layer review for Mount Hutton will not have significant environmental implications.

Social Implications:

Mount Hutton is not a particularly walkable town centre due to a lack of infrastructure and the low density of much of the existing development around the centre. The proposed shared path would help to improve the walkability of Mount Hutton by increasing the number of residents within walking distance of the shops. An existing well-worn dirt track demonstrates the desire for a path along the Creek.

The LEP Amendments will provide a small amount of additional residential zoned land in proximity to the town centre at 85 Tennent Road, Mount Hutton.

74 Wilsons Road is suitable for a mix of commercial, retail, medium density residential, seniors living, and community or recreational development.

Infrastructure Asset Implications:

The shared pathway shown in the Area Plan does not yet have any funding allocated for construction. Council relies on the Cycling Strategy 2021 to prioritise funding for the construction of shared pathways and cycleways. However, Council adopted the Cycling Strategy before the potential pathway along Scrubby Creek was identified in the LMDCP 2014. It is likely the shared pathway will be considered in any upcoming review of the Cycling Strategy as well as future Charlestown Contributions Plan reviews to determine the best way of allocating funding to the proposal.

Financial Implications:

The Planning Proposal shows that some land in Mount Hutton will continue to be included on the LRA maps under *LMLEP 2014*. If Council needs to acquire the land, funds will be sourced from the Open Space Acquisition Fund.

Alternatively, the landowners may dedicate the land to Council, as part of redevelopment of the site. Showing the land on the LRA maps does not prevent Council from accepting dedication of the land in the future.

Risk and Insurance Implications:

The Planning Proposal removes a risk to Council of acquiring land that is no longer needed for a public purpose.

Options:

1. Council resolves to support the recommendations of this report and request a Gateway Determination for the Planning Proposal. The Planning Proposal and

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proposed amendments to LMDCP 2014 will be placed on public exhibition, subject to the outcome of the Gateway determination. There is adequate information available to progress this option, and it is therefore the recommended option.

2. Council resolves not to proceed with the Planning Proposal. This option is not recommended. If the Planning Proposal does not proceed, Council will continue to have an acquisition liability over land that it no longer intends to acquire for a public purpose. The Willow Road extension will also remain on the LRA map layer, which may be limiting the potential infill development of that land.

Conclusion:

The Planning Proposal to modify the LRA map layer within *LMLEP 2014* as it applies to the Mount Hutton locality, and associated changes to the Mount Hutton Town Centre Area Plan will ensure these documents reflect Council's current intentions for this location.

Manager - Integrated Planning - Sharon Pope

Attachments:

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| 1. | Planning Proposal | D08368980 |
| 2. | Summary of proposed changes to LMDCP 2014 | D08061062 |
| 3. | Report to Councillors dated 22 March 2017 | D08307138 |