

Draft Lake Macquarie LEP 2004 (Amendment No 78)

Proposal Title : **Draft Lake Macquarie LEP 2004 (Amendment No 78)**

Proposal Summary : **To rezone a small parcel of land fronting Lake Macquarie from 6(2) Tourism and Recreation Zone to 2(1) Residential zone.**

PP Number : **PP_2013_LAKEM_003_00** Dop File No : **13/07/882**

Proposal Details

Date Planning Proposal Received : **03-May-2013** LGA covered : **Lake Macquarie**

Region : **Hunter** RPA : **Lake Macquarie City Council**

State Electorate : **SWANSEA** Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Marks Point Road**

Suburb : **Marks Point** City : **Lake Macquarie** Postcode : **2280**

Land Parcel : **Lot A and B DP 333868, No 96 and 98 Marks Point Road, 6(2) Tourism and Recreation Zone**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Katrine O'Flaherty**

Contact Number : **0249042707**

Contact Email : **katrine.o'flaherty@planning.nsw.gov.au**

Land Release Data

Growth Centre : Release Area Name :

Regional / Sub Regional Strategy : **Lower Hunter Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :	Date of Release :	
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots : 2	No. of Dwellings (where relevant) :	2
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 : **Council has not requested use of plan-making delegations. The planning proposal is considered to have minor impacts. It is therefore recommended Council be given plan-making delegations.**

External Supporting Notes :

Adequacy Assessment

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

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

Comment : **The statement of objectives adequately explains the intent of the planning proposal to rezone a small area of land to enable a low density residential use.**

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

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

Comment : **The explanation of provisions indicates that the planning proposal is intended to be delivered through an amendment to Lake Macquarie LEP 2004.**

Draft Lake Macquarie LEP 2012 has been prepared and publicly exhibited. Should LEP 2012 be made prior to this planning proposal then this proposal will be finalised as an amendment to LEP 2012 with land use, lot size, and height of building provisions consistent with those of LEP 2012. This is outlined within the planning proposal.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

* May need the Director General's agreement

**2.2 Coastal Protection
2.3 Heritage Conservation
3.1 Residential Zones
3.3 Home Occupations
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils**

4.2 Mine Subsidence and Unstable Land
4.3 Flood Prone Land
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified? **SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Exempt and Complying Development Codes) 2008
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Affordable Rental Housing) 2009**

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

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Minor inconsistency with s117 Direction - 4.3 Flood Prone Land is discussed under the Assessment tab of this report. As are requirements relating to s117 Direction - 4.1 Acid Sulphate Soils and SEPP 55 - Remediation of Land.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council's preference is for a minimum 28 day exhibition period.**

Council intends to exhibit the proposal consistent with the Gateway requirement and to consult various Agencies, including electricity providers, telcos, Hunter Water Corporation, Mine Subsidence Board, Roads and Maritime Services. OEH (heritage), Ministry of Transport, Local Aboriginal Land Council, Traditional Aboriginal Owners Corporation, Hunter New England Health and NSW Education and Training Department.

Council could be advised to focus its agency consultation to the most relevant agencies including, physical service providers, Mine Subsidence Board, Roads and Maritime Services and the Local Aboriginal Land Council, Traditional Aboriginal Owners Corporation and OEH (heritage) given part of the site falls within the Lake Macquarie Sensitive Aboriginal Landscape map.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **No**

If No, comment : **Council has provided maps which generally describe the the planning proposal. However, because this is a spot zoning amendment Council should be advised that draft zoning maps (consistent with the Department's technical mapping requirements) need**

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to be prepared specific to the site proposal, prior to the proposal being placed on public exhibition.

Draft zoning maps should be prepared for both an amendment to LEP 2004 and draft LEP 2012.

Proposal Assessment

Principal LEP:

Due Date : **December 2013**

Comments in relation to Principal LEP : **The draft Lake Macquarie LEP 2012 was exhibited from 21 November until 21 December 2012. It is expected a Section 68 submission to the Department will be made in June 2013.**

Assessment Criteria

Need for planning proposal : **The proposal will enable a land use change from a non-viable marine repair and servicing use to a low density residential use, compatible with surrounding predominantly single residential dwelling uses.**

Council also gave consideration to including the adjoining 6(2) zoned lot but it has a current approved DA for service apartments, a use not permissible in the proposed 2(1) zone. If rezoned 2(1) the site would be subject to existing use rights, facilitating a use considered to be inappropriate for the zone.

Consistency with
strategic planning
framework :

State Environmental Planning Policies

The proposal is consistent with relevant State Environmental Planning Policies.

Local Strategy

Council has assessed the proposal against the strategic directions contained within its Lifestyle 2030 Strategy. The proposal accords with and is considered to be consistent with the strategic directions.

Lower Hunter Regional Strategy

The site is located within the existing urban area identified by the Regional Strategy. The proposal accords with the key Strategy objective to increase housing provided in existing urban areas.

S117 Directions

4.3 Flood Prone Land

The proposal is technically inconsistent with this Direction as it proposes to rezone land subject to flooding and tidal inundation for residential uses. The inconsistency is considered justified because it is consistent with the Lake Macquarie Waterway Flood Risk Management Study (prepared in accordance with the NSW Floodplain Development Manual and Flood Risk Management Guide) in that it will not result in an intensification of development on the site.

Council also advises that:

1) There are two existing dwellings on No 96 Marks Point Rd. The proposed low density 2(1) Residential zone would provide for a similar level of development to that which currently exists.

2) The current 6(2) Tourism and Recreation Zone allows for far greater site intensification than the proposed 2(1) Zone. Uses permitted under the 6(2) zone include backpackers accommodation, community facilities, educational establishments, function centres, hotel or motel accommodation, places of public workshop, pubs, recreational facilities, restaurants, service apartments, sporting facilities and tourist resorts.

3) Rezoning the land to the surrounding medium density 2(2) residential zone is considered to be inconsistent with s117 4.3 Flood Prone Land as it would potentially increase the number of residents at risk to flooding. It would also be premature until an Area Adaptation Plan is fully considered and adopted by Council.

4.1 Acid Sulphate Soil

Acid sulphate soils are present on the site. Council's requirement for an Acid Sulphate Soil Management Plan to be prepared at Development Application stage is concurred with.

SEPP 55 Remediation of Land

The site may contain contaminated land due to the existing marine workshop activities. Council's requirement for a phase 1 contamination survey to be undertaken prior to exhibition of the draft LEP is concurred with.

Environmental social
economic impacts :

As noted the planning proposal will provide for infill residential development in proximity to existing urban services and facilities. It is considered that the proposal will on balance have positive environmental, social and economic impacts and that there is an overall public benefit in it proceeding.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 Month** Delegation : **RPA**

Public Authority
Consultation - 56(2)(d)

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 :

Identify any internal consultations, if required :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

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

S.117 directions:

- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.2 Mine Subsidence and Unstable Land**
- 4.3 Flood Prone Land**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**

Additional Information : **The Planning Proposal should proceed with conditions:**

- 1. The Director General's delegate approved the minor inconsistency with s117 Direction**
- 4.3 Flood Prone Land.**

2. Council be advised that the Department notes Council's advice regarding flooding impacts and requirements for future development. The Director General's delegate has therefore approved the minor inconsistency with s117 Direction 4.3 Flood Prone Land.

3. Council be advised that draft zoning maps (consistent with the Department's technical mapping requirements) need to be prepared specific to the proposed site rezoning, prior to the proposal being placed on public exhibition. Zoning map sets should be prepared for amendments to both LEP 2004 and draft LEP 2012.

2. Council be advised it's requirement for a phase 1 contamination survey to be undertaken prior to exhibition of the draft LEP and consistent with SEPP 55 is concurred with.

3. The planning proposal should be finalised as an LEP within 12 months. A 12 month time-frame is recommended because of the need to undertake a site contamination survey prior to the draft LEP being placed on exhibition.

4. Consistent with Council's request community consultation should be undertaken for a 28 day exhibition period. Consultation with relevant State authorities and agencies as identified by Council, should take place concurrently.

Although Council could be advised to focus its agency consultation to the most relevant agencies only including, physical service providers, Mine Subsidence Board, Roads and Maritime Services and the Local Aboriginal Land Council, Traditional Aboriginal Owners Corporation and OEH (heritage) as part of the site falls within the Lake Macquarie Sensitive Aboriginal Landscape map.

6. Council be given plan-making delegations.

Supporting Reasons :

1. The site is located within the existing urban area identified by the Regional Strategy. The proposal accords with the key Strategy objective to increase housing provided in existing urban areas.

2. The proposal will enable a land use change from a non-viable marine repair and servicing use to a low density residential use, compatible with the surrounding predominantly single residential dwelling use.

3. As advised by Council the proposal accords with the Lake Macquarie Waterway Flood Risk Management Study (prepared in accordance with the NSW Floodplain Development Manual and Flood Risk Management Guide in that it will not result in an intensification of development on the site.

Signature:



Printed Name:

KOFLAHERTY

Date:

16-5-13