

3 May 2013

The Regional Manager
NSW Department of Planning & Infrastructure
Hunter Regional Office
PO Box 1226
Newcastle NSW 2300

Dear Sir / Madam

Subject: Notification - Preparation of Draft Amendment No. 78 to Lake Macquarie Local Environmental Plan 2004 - request for Gateway Determination to Lake Macquarie City Council to exhibit the plan.

Location: Lot A & B DP 333868, 96 & 98 Marks Point Road, Marks Point

I advise that on 22 April 2013, Council resolved to prepare a draft amendment to Lake Macquarie Local Environmental Plan (LEP) 2004. The draft amendment aims to rezone the above land from 6(2) Tourism and Recreation to 2(1) Residential .

I provide further detail of the proposal in the enclosed Council report, including a locality map showing the site, current zoning, and surrounding area.

It is Council's opinion a Local Environmental Study is not necessary due to the following:

The draft amendment is located within the foreshore area and urban context of Marks Point and adjoins residential and tourism uses, and is consistent with Council's Lifestyle 2030 Strategy in terms of infill development within an existing urban catchment. The proposal concerns 2 lots only, which are used for an industrial use (marine services) and associated residential accommodation. The marine services is no longer viable in the current 6(2) Tourism and Recreation zone, nor is it appropriate given the surrounding residential uses, and may be relocated as a business concern in the future. There is no fauna and flora identified on the lots as they are devoid of vegetation.. There will be a requirement for some individual studies as follows:

- a Phase 1 Contamination report;
- An investigation of the flooding characteristics and any proposed amelioration of the sites, will be required at the development application stage as a component of any future development;
- Part of the subject land falls within the Lake Macquarie Sensitive Aboriginal Cultural Landscape Map. An Aboriginal heritage impact assessment may be required to support any future DA application.

Please forward this notification and attached information to your LEP Review Panel.

Our Ref: RZ/10/2006

Advice to Department of Planning and Infrastructure - seeking Gateway determination - Tomos Marine - 96 ~
Marks Point.DOCOur Ref: RZ/10/2006

Your Ref:

Advice to Department of Planning and Infrastructure - seeking Gateway determination - Tomos Marine - 96 ~ Marks Point.DOC

I advise that either the Manager Mr. Brian Bell or the Director of Planning Mr. Tony Farrell will be the Council's Delegated should the Panel grant Authorisation for Council to make the plan.

Should you require further information, please contact me on 4921 0509.

Yours faithfully

Gabriele Calcagno
Senior Strategic Landuse Planner
Integrated Planning Department

Enclosure: Section 56 Notification Advice Cover Sheet

LEP Pro-forma Evaluation Criteria for the delegation of plan making functions

Council Report

Planning Proposal

Council Minute

Attachment 4 – Evaluation criteria for the delegation of plan making functions

Checklist for the review of a request for delegation of plan making functions to councils

Local Government Area:

Lake Macquarie City Council

Name of draft LEP:

Draft amendment to LMLEP 2004

Address of land (if applicable):

Tomo's Marine - 96 & 98 Marks Point Road, Marks Point.

Intent of draft LEP:

The purpose of the LEP is to rezone the land from 6(2) Tourism and Recreation Zone to 2(1) Residential Zone.

Additional Supporting Points/Information

The draft amendment is located within an urban context of Marks Point and adjoins residential and tourism uses. The draft is consistent with Council's Lifestyle 2030 Strategy in terms of infill development being within an existing urban catchment. There is no fauna and flora identified on the lots as they are devoid of vegetation.

The current use of the sites as marine services is no longer viable in this location. The proponents of the land have requested a rezoning of the land to a residential zone due to difficulty in selling the land under the current zoning of 6(2) Tourism and Recreation. A 2(2) Residential (Urban Living) zone was sought however, Council believes that given the location of the site being within a high hazard flood area (along the foreshore of Swan Bay), that a 2(1) Residential Zone is more appropriate, until further studies are undertaken which may support a higher density zoning of the site.

Evaluation criteria for the issuing of an Authorisation

(NOTE – where the matter is identified as relevant and the requirement has not been met, council is to attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y			

Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y
Does the planning proposal contain details related to proposed consultation?	Y
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y
Does the planning proposal adequately address any inconsistency with all relevant S117 Planning Directions?	Y
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y

Spot Rezoning

Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N/A
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	
Does the planning proposal create an exception to a mapped development standard?	N