

Amendment to Lake Macquarie Local Environmental Plan 2014 to rezone land at Cooranbong and to permit utility infrastructure in various zones

Proposal Title : Amendment to Lake Macquarie Local Environmental Plan 2014 to rezone land at Cooranbong and to permit utility infrastructure in various zones

Proposal Summary : The Planning Proposal will determine whether the subject land should be rezoned from RU6 Transition to part R2 Low Density Residential and part E2 Environmental Conservation and whether the land use tables should be amended to make water supply system, sewage reticulation system, sewage treatment plant and water recycling facility permissible with consent in the following zones:-

- Zone R1 General Residential
- Zone R2 Low Density Residential
- Zone R3 Medium Density Residential
- Zone IN4 Working Waterfront
- Zone SP1 Special Activities
- Zone SP2 Infrastructure
- Zone SP3 Tourist
- Zone RE1 Public Recreation
- Zone RE2 Private Recreation

The planning proposal will make the essential utility infrastructure permissible with consent for the North Cooranbong urban release area and all relevant zoned land across the Local Government Area.

PP Number : PP_2014_LAKEM_002_00 **Dop File No :** 14/15756

Proposal Details

Date Planning Proposal Received :	09-Oct-2014	LGA covered :	Lake Macquarie
Region :	Hunter	RPA :	Lake Macquarie City Council
State Electorate :	LAKE MACQUARIE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Lot 11 & Lot 12 DP 1158508		
Suburb :	617 & 617C Freeman	City :	Cooranbong
Land Parcel :	617 & 617C Freeman Drive	Postcode :	2256

The amendment to the land use tables will apply to the relevant zones across the Local Government Area

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DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	Other	Release Area Name :	Other
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
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 : **The planning proposal will determine the amount of additional land suitable for residential development. At this point in time, it is not possible to project a potential allotment yield.**

The planning proposal indicates that the applicant originally requested the rezoning of additional land (4000sm) at No.80 Central Road,Cooranbong from R2 Low Density Residential to Zone SP2 Infrastructure to accommodate the proposed potable water reservoir. This spot rezoning is no longer required because the amendment to the land use tables makes it permissible with consent in the residential zone.

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External Supporting
Notes :

State Environment Planning Policy (Infrastructure) 2007

Clause 106 permits :-

- 1) development by a person licensed under the Water Industry Competition Act 2006 (WIC Act) for the purpose of a sewage treatment plant or water recycling facility to be carried out without development consent within prescribed zones; and
- 2) a sewage reticulation system by a person licensed under the Water Industry Competition Act 2006 to be carried out without development consent, and by any other person with development consent, on any land.

There are no provisions in the State Environmental Planning Policy (Infrastructure) 2007 for development for the purpose of a water supply system by any person other than a public authority (or acting on behalf of a public authority), with or without development consent. As noted above, State Environment Planning Policy (Infrastructure) 2007 permits sewage treatment plants or water recycling facilities without consent in the prescribed zones.

Adequacy Assessment

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

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

Comment :

The statement of objectives explains that the purpose of the Planning Proposal is to determine whether the subject land should be rezoned and whether the land use tables should be amended to make water supply system, sewage reticulation system, sewage treatment plant and water recycling facility permissible with consent in the following zones

- Zone R1 General Residential
- Zone R2 Low Density Residential
- Zone R3 Medium Density Residential
- Zone IN4 Working Waterfront
- Zone SP1 Special Activities
- Zone SP2 Infrastructure
- Zone SP3 Tourist
- Zone RE1 Public Recreation
- Zone RE2 Private Recreation

The planning proposal will make the essential utility infrastructure permissible with consent for the North Cooranbong urban release area and all relevant zoned land across the Local Government Area.

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

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

Comment :

The explanation of provisions explains that the site will be rezoned from RU6 Transition to part R2 Low Density Residential and part E2 Environmental Conservation under the Lake Macquarie Local Environmental Plan 2014.

This will involve amending the land zoning, height of building and minimum lot size maps. A maximum building height of 8.5 metres and a minimum lot size of 450sm will be applied to land rezoned R2 Low Density Residential zone. A maximum building height of 5.5 metres and a minimum lot size of 40ha will be applied to land rezoned E2 Environmental Conservation.

The land use tables will be amended to permit water supply system, sewage reticulation system, sewage treatment plant, and water recycling facility with consent in the following zones :- R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, IN4 Working Waterfront, SP1 Special Activities, SP2 Infrastructure, SP3 Tourist, RE1 Public Recreation and RE2 Private Recreation.

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Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

3.1 Residential Zones

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.2 Mine Subsidence and Unstable Land

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 14—Coastal Wetlands

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

The amendment to the land use tables to make water supply system, sewage reticulation system, sewage treatment plant and water recycling facility permissible with consent in the various zones is considered consistent with the relevant SEPPs and Minister's S117 directions. Also, the inclusion of the proposed utility infrastructure is considered compatible with the relevant zone objectives.

An assessment of the rezoning proposal against the relevant SEPPs and the Minister's S117 directions is provided below:-

SEPP 19 – Bushland in Urban Areas

Comment: Council intends to investigate whether a conservation corridor is required across the land. This will be determined by the flora and fauna investigations and liaison with the Office of Environment and Heritage.

SEPP No44 — Koala Habitat Protection

Comment: The flora and fauna investigations will assess the provisions of SEPP 44 and determine whether the site is potential or core koala habitat.

SEPP No55 — Remediation of Land

Comment: A Contamination assessment is required to determine whether the site is uncontaminated and is suitable for residential development.

SEPP (Rural Lands) 2008

The land is not used for agriculture and is highly unlikely to be used for agriculture because of its size, location and characteristics. The land adjoins residential land and the proposal is consistent with Rural Planning Principles and Rural Subdivision Principles.

Minister's s117 Directions

1.2 Rural Zones

Comment: The draft LEP is inconsistent with this direction because it rezones land from from RU6 Transition to part R2 Low Density Residential and part E2 Environmental Conservation. The inconsistency is justified by the Lower Hunter Regional Strategy, which identifies the subject land as a potential urban area.

1.5 Rural Lands

Comment: The draft LEP is inconsistent with this direction because it affects land within a rural transition zone. The inconsistency is justified by the Lower Hunter Regional Strategy, which identifies the subject land as a potential urban area.

2.1 Environment Protection Zones

Comment: The flora and fauna assessments will determine the significance of the vegetation and the amount of land that should be zoned E2 Environmental Conservation. Consultation with the Office of Environment and Heritage is required to determine consistency with this Direction and whether an environmental biodiversity offset package is required.

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2.3 Heritage Conservation

Comment: An aboriginal archaeological assessment should be undertaken for this site to determine whether the draft LEP is consistent with this direction.

3.1 Residential Zones

Comment: The proposed R2 Low Density Residential zone permits a wide range of dwelling types. The subject land will be connected to reticulated sewer, reticulated water, electricity & telecommunication. The draft LEP is consistent with this direction.

3.4 Integrating Land Use and Transport

Comment: The draft LEP is consistent with this direction. The development will take advantage of existing and proposed infrastructure and services in the Cooranbong urban release area.

4.1 Acid Sulfate Soils

Comment: The subject land has been identified as containing potential acid sulfate soils. An acid sulfate soils study is required to assess the appropriateness of the change in land use given the presence of acid sulfate soils. Council needs to address this S117 Direction and determine consistency.

4.2 Mine Subsidence and Unstable Land

Comment: The Mine Subsidence Board will be consulted in accordance with this direction. Council will need to take into consideration any comments made.

4.3 Flood Prone Land: Council advises that part of the site is flood prone. Council needs to address this S117 Direction and determine consistency.

4.4 Planning for Bushfire Protection

Comment: Council needs to consult with the NSW Rural Fire Service before undertaking community consultation to satisfy the requirements of Direction 4.4 Planning for Bushfire Protection.

5.1 Implementation of Regional Strategies

Comment: The Lower Hunter Regional Strategy identifies the subject land as a potential urban area. The proposal is consistent with this S117 Direction.

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

If No, explain :

The Gateway determination will approve some inconsistencies and require Council to undertake further studies and consultation to comply with the relevant directions

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

The amending LEP maps will be prepared after the required studies have been undertaken to determine zone boundaries. It will be necessary to exhibit the amending LEP maps with the planning proposal.

The subject land need to be mapped as an urban release area.

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment :

Agree with Council decision to exhibit the planning proposal for a minimum of 28 days. 28 days should give the community sufficient time to review the supporting information, such as the Flora and Fauna Assessment, Bushfire Assessment, Traffic Impact Assessment and Infrastructure Services Report to form an opinion about the rezoning proposal.

Additional Director General's requirements

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

If Yes, reasons :

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Principal LEP completed

Assessment Criteria

Need for planning
proposal :

Yes. The preparation of a Planning Proposal is the most appropriate mechanism to investigate whether the subject land should be rezoned and to make utility infrastructure permissible with consent in various zones.

Consistency with
strategic planning
framework :

The Planning Proposal is not the result of a strategic study or report. The spot rezoning is located within the Morisset Growth and Expansion Corridor under Council's Lifestyle 2030 Strategy, and is identified a potential urban release area under the Lower Hunter Regional Strategy. The Planning Proposal will contribute towards meeting the housing targets identified in the Lower Hunter Regional Strategy and make it possible to provide the essential utility infrastructure for the North Cooranbong urban release area.

The amendment to the land use tables is considered compatible with the relevant zone objectives and will make the provision of essential infrastructure permissible with consent in zones not covered by State Environment Planning Policy (Infrastructure) 2007.

The Gateway determination stipulates the required planning assessments to determine future residential and environmental conservation zones.

Environmental social
economic impacts :

Environmental Impacts

The flora and fauna assessment for the spot rezoning will determine the significance of the vegetation and the amount of land that should be zoned E2 Environmental Conservation. Consultation with the Office of Environment and Heritage will determine whether an environmental biodiversity offset package is required.

Social and Economic Impacts

The planning proposal should have positive social and economic benefits by the provision of additional housing and protecting environmentally significant lands.

The amendment to the land use tables will make essential infrastructure permissible with consent in the various zones. The assessment process will determine the potential environmental, social and economic impacts on a case by case scenario.

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Assessment Process

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

Timeframe to make LEP : **18 months** Delegation : **RPA**

Public Authority Consultation - 56(2)(d) : **NSW Aboriginal Land Council
Office of Environment and Heritage
Hunter Water Corporation
Mine Subsidence Board
NSW Rural Fire Service
Transport for NSW - Roads and Maritime Services**

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. :

Flora

Fauna

Heritage

Bushfire

Flooding

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? **Yes**

If Yes, reasons : **The subject land needs to be mapped as an Urban Release Area**

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal - FreemansDrive Cooranbong - 26 June 2014X.pdf	Proposal	Yes
20141009 PP clarification Council advice to keep it as one amendment.pdf	Determination Document	Yes

Planning Team Recommendation

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

S.117 directions: **1.2 Rural Zones
1.5 Rural Lands
2.1 Environment Protection Zones
3.1 Residential Zones
3.4 Integrating Land Use and Transport**

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- 4.1 Acid Sulfate Soils**
- 4.2 Mine Subsidence and Unstable Land**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**

Additional Information : It is recommended that:

1. The Planning Proposal be supported and Council be given the Minister's plan making delegations. Council is unable to use the Minister's plan making delegations if there is an unresolved objection from another Government agency.

2. Prior to commencing public exhibition, Council is to provide the following additional information within the planning proposal:

- Amend the Land Zoning, Lot Size and Height of Building Maps in accordance with the recommendations of the supporting studies and explanation of provisions;
- Amend the Urban Release Area Map to identify the subject lands as an urban release area;
- Contamination and Geotechnical Assessment;
- Flooding, Hydrology and Water Resource Management Study;
- Acid Sulfate Soils Assessment;
- Aboriginal Heritage Assessment;
- Flora and Fauna Assessment;
- Bushfire Assessment;
- Traffic Impact Assessment; and
- Infrastructure Services Report.

3. Prior to commencing public exhibition, Council may amend the planning proposal to permit water supply system with consent in its rural zones because this is not permitted under State Environment Planning Policy (Infrastructure) 2007.

4. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 ('EP&A' Act) as follows:

- (a) the Planning Proposal be made publicly available for 28 days;
- (b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available along with planning proposals as identified in section 4.5 of A guide to preparing LEPs (Department for Planning 2009).

5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

- NSW Rural Fire Service
- Office of Environment and Heritage
- NSW Aboriginal Land Council
- Hunter Water Corporation
- Mine Subsidence Board
- Transport for NSW - Roads and Maritime Services

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

6. The Director General (or delegate) approves the minor inconsistencies with the Minister's s117 Direction 1.2 Rural Zones and 1.5 Rural Lands because the inconsistencies are justified by the Lower Hunter Regional Strategy. Council should be advised to address the Minister's S117 Direction 2.1 Environment Protection Zones, Direction 4.1 Acid Sulfate Soils, Direction 4.2 Mine Subsidence and Unstable Land and Direction 4.3 Flood Prone Land and if required obtain relevant approvals.

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7. 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.

8. The timeframe for completing the LEP is 18 months from the date of the Gateway Determination.

Supporting Reasons :

The Independent Pricing and Regulatory Tribunal (IPART) are responsible for assessing and making recommendations to the Minister for the construction and operation of water and sewer infrastructure pursuant to the Water Industry Competition Act 2006 (WICA 2006).

The purpose of the planning proposal is to make essential utility infrastructure permissible in various zones not covered by State Environment Planning Policy (Infrastructure) 2007. It should be noted that State Environment Planning Policy (Infrastructure) 2007 does not permit water supply system by any person other than a public authority (or acting on behalf of a public authority), with or without development consent in any zone. Therefore, it may be appropriate to permit water supply system with consent in its rural zones.

A timeframe of 18 months is recommended to provide additional time to negotiate the environmental biodiversity offset and if necessary prepare Voluntary Planning Agreement between Council and the Office of Environment and Heritage.

Signature:



Printed Name:

KO'FLAHERTY

Date:

17/10/14