

City Strategy Committee Meeting 9 March 2015

15STRAT017 Adoption of Draft Amendment RZ/5/2014 to Lake Macquarie LEP 2014 - Morisset Acquisition Land Review

Council Ref: RZ/5/2014 - D07289504
Report By: Senior Strategic Landuse Planner - Grant Alderson

Précis:

Council resolved on 28 July 2014 (14SP037) to exhibit a planning proposal to add and remove land from the Land Reservation Acquisition map in Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014). The Land Reservation Acquisition map identifies land that Council seeks to purchase for public purposes.

The Planning Proposal was on public exhibition from 1 December to 22 December 2014. Council received five submissions during the public exhibition period, and consideration of the submissions resulted in no changes to the planning proposal.

This report recommends that Council endorses the planning proposal unchanged, and makes the associated Local Environmental Plan.

Recommendation:

- A. Note the submissions raised during public exhibition as discussed in this report, and endorses the planning proposal to amend Lake Macquarie Local Environmental Plan 2014 (LMLEP 2104) unchanged as contained in Attachment 1.
- B. Make the associated Local Environmental Plan under delegation granted by the Minister for Planning.
- C. Notify landowners, and those who made submissions during the exhibition period, of Council's decision.
- D. Place a public notice of the Local Environmental Plan amendment in local newspapers.

Background:

The Land Reservation Acquisition map in Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) identifies private land that Council and government agencies seek to purchase for public purposes, such as parks, libraries and roads.

In late 2012, Council adopted a new Development Contributions Plan for the Morisset Contributions Catchment, and resolved to conduct a review to ensure that the Land Reservation Acquisition map accurately identifies land required for public purposes (12COMM010). The review recommended adding and removing a range of land areas from the map. On 28 July 2014, Council resolved to exhibit a planning proposal to amend the Land Reservation Acquisition map based on the review recommendations (14SP037).

In November 2014, the Department of Planning and Environment (DoPE) issued a Gateway determination allowing the planning proposal to proceed to consultation, and granted Council delegation to make the LEP on behalf of the Minister for Planning.

Consultation occurred in accordance with the Gateway determination. Government agencies made no objections. However, Council received five public submissions

City Strategy Committee Meeting 9 March 2015

including three objections from landowners. Consideration of the submissions resulted in no recommended changes to the planning proposal.

Proposal:

It is proposed that Council endorses the planning proposal unchanged, as contained in Attachment 1, and exercises delegation to make the LEP on behalf of the Minister for Planning. The planning proposal contains 16 items and will result in the following changes to LMLEP 2014:

Item	Subject Land <i>(for maps see Attachment 2)</i>	Changes to LMLEP 2014
1	49 Crawford Road, COORANBONG	The subject land will be removed from the Land Reservation Acquisition map
2	56 Larapinta Drive, WYEE POINT	
3	892 Freemans Drive, COORANBONG	
4	18 Kalang Road, DORA CREEK	
5	15 Norman Avenue, SUNSHINE	
6	52 Manhire Road, WYEE	
7	Multiple lots on King Street and Yarrowonga Park Road, BALCOLYN	
8	Rocky Point Road (Road Reserve), ERARING	
9	Multiple lots on Ellis Street, Keightley Street, Wood Street & Sweetland Street, WYEE POINT	
10	135 Dora Street, MORISSET	
11	132 Wattagan Road, MARTINSVILLE	The subject land will be removed from the Land Reservation Acquisition map and rezoned from RE1 Public Recreation to E2 Environmental Conservation
12	Multiple lots on Edgewater Drive and Lakeview Road, MORISSET PARK	
13	46 and 63 Advantage Avenue, MORISSET	
14	9 Mandalong Road, MORISSET	The subject land will be removed from the Land Reservation Acquisition map and rezoned from RE1 Public Recreation / SP2 Infrastructure to IN2 Light Industry
15	77 and 96 Fishery Point Road, MIRRABOOKA	96 Fishery Point Road will be added to the Land Reservation Acquisition map; and 77 Fishery Point Road will be removed from the map and rezoned from RE1 Public Recreation to E2 Environmental Conservation
16	120, 122 and 124 Wyee Road, WYEE	The subject land will be added to the Land Reservation Acquisition map

Consultation:

Government Agencies

City Strategy Committee Meeting 9 March 2015

The Gateway determination required consultation with the Mine Subsidence Board and the NSW Rural Fire Service. These agencies have no objections to the planning proposal.

Public Exhibition

Public exhibition of the planning proposal occurred from 1 December to 22 December 2014. Council wrote to owners of land subject impacted by the planning proposal and received five submissions. Two of the submissions did not request any changes to the planning proposal and three submissions raised objections. A summary of all the submissions is outlined in Attachment 3, the main issues raised in the submissions are presented below. There have been no changes to the planning proposal following the public exhibition process.

Objection to Item 13: Removing Land from the Land Reservation Acquisition map

The owner of 46 Advantage Avenue, Morisset, requests that the land be purchased by Council.

Planning Response: The land is proposed to be removed from the map as it has limited recreational value and is not required by Council for a public purpose. No changes are recommended in response to the submission.

Objection to Item 15: Proposed Zone Change

The owner of 77 Fishery Point Road, Mirrabooka, objects to rezoning the land from RE1 Public Recreation to E2 Environmental Conservation, and requests that the RU4 Primary Production Small Lots zone apply to the land.

Planning Response: The land is not required for public recreation purposes and contains existing native vegetation. Part of the land is already zoned E2 Environmental Conservation. The proposed zoning is consistent with the adjoining zoning and environmental values of the land. No changes are recommended in response to the submission.

Objection to Item 16: Adding Land to the Land Reservation Acquisition map

The owner of 120, 122 and 124 Wyee Road, Wyee, objects to Council seeking to purchase the land for public purposes.

Planning Response: Adding the land to the LRA map is consistent with the adopted Development Contributions Plan for the Morisset Contributions Catchment. Under the plan, the land is identified to be purchased by Council for the purpose of a community building to meet the future needs of Wyee residents. Adding the land to the map will not force the landowner to sell the land to Council. The landowner can continue to use the land and to sell the land to Council at any point-in-time in the future, should they want to. No changes are recommended in response to the submission.

City Strategy Committee Meeting 9 March 2015

Implications:

Policy Implications:

Lower Hunter Regional Strategy (LHRS)

The planning proposal is generally consistent with the LHRS. None of the land proposed to be removed from the Land Reservation Acquisition map is identified in the LHRS as being required for regionally significant infrastructure projects. The land proposed to be added to LMLEP 2014 will assist in providing local community and recreation facilities to meet the needs of population growth forecast in the LHRS.

Lifestyle 2030 Strategy (LS2030)

The planning proposal is generally consistent with LS2030. In particular, the planning proposal aligns with the following strategic direction and outcome:

Strategic Direction 4: A well serviced and equitable city

State Environmental Planning Policies (SEPPs)

The planning proposal is consistent with relevant SEPPs, including SEPP No. 55 – Remediation of Land.

Section 117(2) Ministerial Directions

The planning proposal is generally consistent with relevant S117 Directions, with the exception of the following:

- 1.1 Business and Industrial Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 6.2 Reserving Land for Public Purposes

The Department of Planning and Environment considers that the inconsistencies are of minor significance, and have approved the inconsistencies.

Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014)

The planning proposal will add and remove land from the Land Reservation Acquisition map, and make a range of changes to the Land Zoning map, as detailed in the 'proposal' section of this report. Where changes to the Land Zoning map are proposed, the following changes to the Height of Building map and Lot Size map will also occur:

Proposed Zoning	Proposed Maximum Building Height	Proposed Minimum Lot Size
E2 Environmental Conservation	5.5m	40 ha
IN2 Light Industry	15m	1500m ²

Environmental Implications:

The planning proposal will not result in any adverse environmental impacts. The areas proposed to be removed from the Land Reservation Acquisition map that contain environmental values will be zoned E2 Environmental Conservation to protect the environmental values.

City Strategy Committee Meeting 9 March 2015

Social Implications:

The proposal to remove land from the Land Reservation Acquisition map will not result in any adverse social impacts. The land proposed to be removed from the LRA map has:

- limited recreational, transport or environmental value;
- high acquisition costs and/or significant constraints limiting public use of the land; or
- is no longer required for a public purpose.

Adding the proposed land to the Land Reservation Acquisition map will have positive social outcomes, as it will assist Council purchase land for future community and recreation facilities identified in the Development Contributions Plan for the Morisset Contributions Catchment.

Infrastructure Asset Implications:

There are no Council infrastructure asset implications arising from this report.

Financial Implications:

The land proposed to be removed from the Land Reservation Acquisition map represents a potential future purchase cost to Council of approximately \$6.8m (in 2014 dollars). Removing the land from the map will remove Council's obligation to purchase the land, significantly reducing future expenditure from Council's Open Space Reserve.

The land proposed to be added to the LRA map will not affect Council's budget position. The land is identified in the Development Contributions Plan for the Morisset Contributions Catchment, and Council's Development Contributions Department has confirmed that funding is available and allocated to purchase the land.

Risk and Insurance Implications:

There is minimal risk or insurance implications to Council with the processing of this LEP amendment. The preparation of a LEP amendment is a regular Council activity governed by the provisions of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*. The level of risk attached to this activity will be minimised through following the process as established by the *EP&A Act 1979* and *Environmental Planning and Assessment Regulation 2000* as well as Council's Local Environmental Plan Amendment Procedure.

Options:

The following options are available to Council:

1. Endorse the planning proposal unchanged and make the associated LEP amendment under delegation granted by the Minister for Planning. This is the recommended option, as it ensures the LRA map accurately identifies land that Council intends to purchase for future public purposes.
2. Resolve to amend the planning proposal. This is not the preferred option, as comprehensive investigations and consultation were undertaken as part of preparing the planning proposal.
3. Resolve not to proceed with the planning proposal. This is not the preferred option, as it will result in land remaining in the Land Reservation Acquisition map that will not be beneficial for a public purpose and will be a financial liability for Council.

City Strategy Committee Meeting 9 March 2015

Conclusion:

Public exhibition of the planning proposal to add and remove land from the Land Reservation Acquisition map in LMLEP 2014 has been finalised. Council received five submissions, and consideration of the submissions has resulted in no changes to the planning proposal. It is recommended that Council endorses the planning proposal unchanged and proceeds to make the associated LEP amendment. Making the LEP amendment will ensure that the Land Reservation Acquisition map accurately identifies land that Council intends to purchase for future public purposes.

Manager - Integrated Planning - Sharon Pope

Attachments:

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| 1. Planning Proposal - Draft Amendment RZ 5 2014 -
Under separate cover D07327689 | Under separate
cover | |
| 2. Subject Land Maps | | D07328695 |
| 3. Public Exhibition Submissions | | D07330150 |