

**Short Term Rental Accommodation - Amendment to Lake Macquarie Local Environmental Plan 2014**

Proposal Title : **Short Term Rental Accommodation - Amendment to Lake Macquarie Local Environmental Plan 2014**

Proposal Summary : **The proposal seeks to introduce provisions into the Lake Macquarie local environmental plan 2014 to manage short-term holiday rentals.**

**It is proposed to allow dwellings that have up to 4 bedrooms and meet certain criteria to be used for short term holiday rentals as exempt development, and to require those with 5 or more bedrooms to be permitted with development consent.**

PP Number : **PP\_2014\_LAKEM\_004\_00**      Dop File No : **14/20176**

**Proposal Details**

Date Planning Proposal Received : **03-Dec-2014**      LGA covered : **Lake Macquarie**

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

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

LEP Type : **Policy**

**Location Details**

Street :

Suburb :      City :      Postcode :

Land Parcel : **LGA wide**

**DoP Planning Officer Contact Details**

Contact Name : **Dylan Meade**

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**RPA Contact Details**

Contact Name : **Hannah Benson**

Contact Number : **0249210298**

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**DoP Project Manager Contact Details**

Contact Name :

Contact Number :

Contact Email :

## Short Term Rental Accommodation - Amendment to Lake Macquarie Local Environmental Plan 2014

### Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :		Consistent with Strategy :	
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 : **Council has not indicated if it requests use of delegations in respect of the Minister's plan making function under section 59 of the Act for the planning proposal. It is recommended Council be granted these 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 explains the intent of the proposal is to improve certainty for short-term rental accommodation owners, guests, neighbours and the community; and to ensure there is a regulatory framework in place.**

**The statement of objectives is supported.**

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

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

Comment : **The explanation of provisions explains that the intent of the proposal will be implemented through a new local planning clause, exempt development provisions and by inserting a new definition.**

**The explanation of provisions also contains wording for a proposed clause, exempt development and definition. These proposed provisions require that the owner must be a member of an organisation that has endorsed and implements the 'Holiday Rental Code of Conduct' (the Code) for the short term rental accommodation to be determined as being**

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exempt development. There are a number of concerns requiring the owner to be a member of an organisation that has endorsed the Code, including:

- Any changes to the title of the Code would effectively mean all holiday rentals would become prohibited until the Lake Macquarie LEP is amended to reflect the new code;
- Organisations may stop endorsing or implementing the code without Council's awareness;
- Organisations may apply different levels of enforcement for non-compliance of the Code.
- Certain organisations that endorse the Code will be favoured even though other organisations or individual rentals may have equivalent or higher standards.

It is recommended that Council consider the implementation and enforcement of the Code requirement and provide additional explanation this is the proposal prior to exhibition.

### Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

**2.2 Coastal Protection**

\* May need the Director General's agreement

**3.4 Integrating Land Use and Transport**

**4.3 Flood Prone Land**

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

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 :

### Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment :

**No mapping is required as this is a policy amendment.**

### Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

**Council states that the proposal does not fit the definition of a 'low impact planning proposal' and it should therefore be exhibited for a minimum of 28 days.**

**The planning proposal is however considered a low impact proposal as it is:**

- consistent with the pattern of surrounding land use zones and/or land uses
- consistent with the strategic planning framework
- presents no issues with regard to infrastructure servicing
- not a principal LEP
- does not reclassify public land.

**In accordance with the above and 'A guide to preparing local environmental plans', it is recommended that the proposal be exhibited for a minimum of 14 days.**

### 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 : **December 2014**

Comments in relation to Principal LEP :

**The standard instrument Lake Macquarie LEP 2014 is in force.**

**Assessment Criteria**

Need for planning proposal :

**The planning proposal is required in order to manage short term holiday rentals. This is in light of the recent finding of the NSW Land and Environment Court Case of Dobrohotoff vs Bennic (2013) that holiday rentals are a commercial rather than a residential activity and therefore by default are prohibited in residential zones.**

Consistency with strategic planning framework :

**LOWER HUNTER REGIONAL STRATEGY (LHRS)**

**The proposal is consistent with the vision to protect and strengthen the quality lifestyle for its residents and visitors. There are no relevant actions or outcomes in the LHRS that relate to tourism.**

**LIFESTYLE 2030**

**The planning proposal is consistent with Council's local planning strategy (not endorsed) particularly aims to sustain a prosperous economy, and encourage tourism and non-centre employment.**

**STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)**

**The are no SEPPs relevant to the planing proposal.**

**LOCAL PLANNING (SECTION 117) DIRECTIONS**

**2.2 Coastal Protection**

**Council has identified this Direction as relevant as some of the dwellings within Lake Macquarie LGA are within the coastal zone. The proposal is considered consistent with this Direction as it includes provisions that are in accordance with relevant policies listed under Clause 5.**

**3.4 Integrating Land Use and Transport**

**This Direction is applicable as the proposal alters a provision relating to urban land. The proposal is consistent with 'The Right Place for Business and Services – Planning Policy' as short term holiday rentals are not considered major trip generating activities.**

**4.3 Flood Prone Land**

**Council has identified this Direction as relevant as some of the dwellings within Lake Macquarie LGA are flood prone. The proposal is considered consistent with this Direction as it does not permit any increase in the development of the land subject to flooding.**

Environmental social economic impacts :

**ENVIRONMENTAL**

**The proposal is considered to have limited impacts on the natural environment. It will not permit dwellings in any additional areas, only allow existing dwellings to be used for short-term holiday rental.**

**SOCIAL AND ECONOMIC**

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The proposal will have positive social impacts by allowing management of noise and other amenity issues associated with current use of dwellings for short term holiday rental. There will be positive economic impacts through increased tourism opportunities from greater certainty on the use of dwellings for short term holiday rentals.

**Assessment Process**

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **6 months** 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
<b>Letter from LMCC requesting Gateway for short term holiday rentals.pdf</b>	<b>Proposal Covering Letter</b>	<b>Yes</b>
<b>Attachment 1 - Planning Proposal- Review of LMLEP 2014 for short-term rental accommodation.pdf</b>	<b>Proposal</b>	<b>Yes</b>

**Planning Team Recommendation**

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

S.117 directions: **2.2 Coastal Protection**  
**3.4 Integrating Land Use and Transport**  
**4.3 Flood Prone Land**

Additional Information : **It is recommended that the proposal proceed subject to the following conditions:**

- 1. Prior to undertaking community consultation Council is to update the planning**

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proposal to provide additional explanation regarding the implementation and enforcement of the "Holiday Rental Code of Conduct" requirements.

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

(a) the planning proposal is classified as low impact as described in A Guide to Preparing LEPs (Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 days; and

(b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs ( Planning & Infrastructure 2013).

3. No consultation is required with public authorities under section 56(2)(d) of the EP&A Act.

4. 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 (for example, in response to a submission or if reclassifying land).

5. The timeframe for completing the LEP is to be 6 months from the week following the date of the Gateway determination.

It is also recommended that Council be granted use of delegations in respect of the Minister's plan making function under section 59 of the Act for the planning proposal.

Supporting Reasons : The intent of the planning proposal is supported. There are some concerns regarding references to the 'Holiday Rental Code of Conduct' which need to be clarified prior to exhibition.

Signature:



Printed Name:

KOFLACHER

Date:

17/12/14