



Mr Brian Bell  
General Manager  
Lake Macquarie City Council  
Box 1906  
HUNTER REG MAIL CTR NSW 2310

Our ref: PP\_2015\_LAKEM\_004 (15/03803)  
Your ref: F2014/00781

Att: Ms Joanne Marshall

Dear Mr Bell

### **Planning proposal to amend Lake Macquarie Local Environmental Plan 2014**

I am writing in response to your Council's letter dated 24 February 2015, requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to enable the classification and reclassification of land at Boolaroo.

As delegate of the Minister for Planning, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed the planning proposal's inconsistencies with S117 Directions 2.2 Coastal Protection; 4.1 Acid Sulfate Soils; 4.3 Flood Prone Land are of minor significance. In relation to S117 Direction 6.2 Reserving Land for Public Purposes, I have agreed to the reduction of land for public purposes. No further approval is required in relation to these Directions.

Council may still need to obtain the agreement of the Secretary's delegate to comply with the requirements of relevant S117 Direction, 4.2 Mine Subsidence and Unstable Land. Council should ensure this occurs prior to the plan being made.

Council is reminded of its obligations for undertaking a public hearing in relation to the proposed reclassification of land in accordance with the department's practice note *PN09-003, Classification and reclassification of public land through a local environmental plan*. Because the proposal involves Council owned land, I have elected not to issue Council with delegations to finalise this plan.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these

commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, I have arranged for Susan Blake from the Hunter office to assist you. He can be contacted on (02) 49042700.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D. Rowland', written in a cursive style.

4 March 2015

**David Rowland**  
**General Manager**  
**Hunter and Central Coast Region**  
**Planning Services**

## Gateway Determination

**Planning proposal (Department Ref: PP\_2015\_LAKEM\_004\_00):** to classify and reclassify land in Lake Macquarie LGA.

I, the General Manager, Hunter and Central Coast Region at Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Lake Macquarie Local Environmental Plan (LEP) 2014 to enable the reclassification of Council owned land at Part of Lot 2, DP 1183441 (2C TC Frith Avenue, Boolaroo) from community to operational land, as described in Council's planning proposal (reference no F2014/00781), should proceed subject to the following conditions:

1. Prior to the planning proposal being placed on public exhibition, Council is to:
  - a. remove reference to classification of Part of Lot 1, DP 1183441 (1A Main Road, Boolaroo) to community land from the planning proposal. Council can classify the land as community land under section 31, 33 and 34 of the Local Government Act 1993, without the need for a planning proposal.
  - b. confirm that the planning proposal will extinguish the interest in the land relating to the land dedication as a drainage reserve, and update the planning proposal as necessary, to assist the community in understanding exactly what is proposed.
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 must be made publicly available for a minimum of **28 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 (Department of Planning & Environment 2013)*.
3. Consultation is required with the following public authority under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
  - Mine Subsidence Board (s117 Direction 4.2 Mine Subsidence and Unstable Land)

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Council should, following receipt of advice from the public authorities, update its consideration of s117 Directions in the planning proposal, as required.

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. Council should not exercise their delegations under section 59(1) of the EP&A Act, as the planning proposal includes reclassification of public land that may require the Governor to discharge 'public reserve' status, trusts, interests etc from the land.

6. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 4<sup>th</sup> day of March 2015.



**David Rowland**  
**General Manager**  
**Hunter and Central Coast Region**  
**Planning Services**  
**Department of Planning and Environment**

**Delegate of the Minister for Planning**