

Permitting a Manufactured Home as a Principal Dwelling

Proposal Title : **Permitting a Manufactured Home as a Principal Dwelling**

Proposal Summary : **The proposal seeks to introduce a new local provision that will permit with consent, a manufactured home as a principal dwelling, where a dwelling house is permissible with consent.**

PP Number : **PP_2015_LAKEM_003_00** Dop File No : **15/03496**

Proposal Details

Date Planning Proposal Received : **30-Apr-2015** LGA covered : **Lake Macquarie**

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

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

LEP Type : **Policy**

Location Details

Street : **All**

Suburb : **All** City : **Lake Macquarie LGA** Postcode : **All**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Katrine O'Flaherty**

Contact Number : **0249042710**

Contact Email : **katrine.o'flaherty@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Matthew Hill**

Contact Number : **0249210498**

Contact Email : **mphil@lakemac.nsw.gov.au**

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name :

Regional / Sub Regional Strategy : **Lower Hunter Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	N/A
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 :

Approval of manufactured homes within NSW is complicated due to legal definitions and consent requirements under the Environmental Planning and Assessment Act 1974, the Local Government Act 1993 and the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

Lake Macquarie City Council is of the opinion that the use of a manufactured home as a principal dwelling is, with the exception of North Wallarah through schedule 1 of the 2014 LEP, otherwise prohibited within the LGA. The term 'manufactured home' cannot be inserted within the land use tables of a standard instrument LEP and the structure of land use tables within Lake Macquarie LEP 2014 means manufactured homes are not otherwise permissible through the group term 'residential accommodation'.

The planning proposal will facilitate permissibility under the Environmental Planning and Assessment Act 1979 (EP&A Act) within the Lake Macquarie LGA, however approval will still be required to address the Local Government Act and Regulation. Council have requested a Local Approvals Policy that, if supported by the Secretary and finalised by Council, will address the need for approval under the Local Government Act. In the interim under s78(3) of the EP&A Act a single development application can be submitted for both development consent and approval under the Local Government Act.

The planning proposal was initially lodged by Council on 17 February 2015. Due to the complexity of the issue Parliamentary Counsel and both Legal Services Branch and the Housing and Infrastructure Policy team have been consulted. Additional information has also been sought and received from Council. A clause has been drafted to give effect to Council's objective. The date that this clause was available, 30 April 2015, is the date that the proposal is considered adequate.

External Supporting Notes :

Council has not requested delegations for this proposal but has indicated that they have no objection to accepting delegations if the Department wished to grant them. Due to the minor administrative nature of the proposal and lack of any objection from the Department's policy and legal branch it is considered appropriate to give Council delegations for this matter.

Adequacy Assessment

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

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

Comment : **The Planning Proposal clearly states that the objective of the proposal is to permit with consent, a manufactured home as a principal dwelling, where a dwelling house is permissible with consent.**

It would be useful for consultation purposes if Council further clarified where a manufactured home may be considered. This would be clarified by permissibility in the land use table and, in some cases where a 'dwelling house' is permitted with consent via a local provision or additional uses, by specific site. It should be noted that a manufactured home will be subject to all requirements for a dwelling house such as development standards.

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

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

Comment : **Council had provided a draft clause as an explanation of provisions and an amended clause has been provided by Parliamentary Counsel. The precise wording of the clause may change after exhibition, however the draft clause is adequate for the purpose of public 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 :

* May need the Director General's agreement

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 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
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 3.6 Shooting Ranges

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified? **SEPP (Building Sustainability Index: BASIX) 2004**

e) List any other matters that need to be considered : **Council has not identified any SEPPs that are relevant to the proposal however both SEPP (Building Sustainability Index: BASIX) 2004 and SEPP (Exempt and Complying Development Codes) 2008 are considered relevant and are further discussed in the Strategic Planning Framework Section.**

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

If No, explain : **Consultation with relevant agencies is required to determine whether or not the proposal is consistent with all s117 directions and if not whether any inconsistency is justified. This matter is further discussed under the Strategic Planning Framework**

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section.

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **Mapping is not relevant to the objective of the planning proposal nor its provisions.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council has proposed a 21 day exhibition period and noted that the matter is administrative and minor in nature. The proposal is considered of low impact under 'A Guide to Preparing LEPs', and as such a minimum exhibition period of 14 days is recommended.**

Additional Director General's requirements

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

If Yes, reasons :

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 :

The Lake Macquarie LEP 2014 is a standard instrument and is in force. Several sites are deferred from the LEP and will not be affected by the provision.

Assessment Criteria

Need for planning
proposal :

A Planning Proposal is the only way to amend the LEP to make manufactured homes permissible as a principal dwelling throughout the LGA. Council has considered a range of amendment options to address the matter and determined that the proposed additional clause provides the clearest and most direct approach to achieving the intended outcome. This position is supported.

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Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY

The issue of manufactured housing is not expressly considered within the Lower Hunter Regional Strategy. However the Strategy does promote the consideration of mechanisms to improve housing affordability and diversity of housing type. Council's Planning Proposal promotes the use of manufactured homes as a principal dwelling as a mechanism to assist with these matters. As such the proposal is considered consistent with the Strategy.

STATE ENVIRONMENTAL PLANNING POLICIES

Due to the Environmental Planning and Assessment Act 1979 definition of a building, which expressly excludes a manufactured home, certain state policies which refer to a 'building' or 'dwelling house' (where the definition refers to 'building') are not applicable to manufactured homes.

This includes State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. Council has confirmed that they will rely upon the provisions of their Development Control Plan, which includes energy efficiency measures, to ensure that environmental outcomes associated with this type of dwelling are maximised. Council should carefully examine their DCP to ensure that its application to manufactured homes is robust particularly where it refers to controls as they apply to 'buildings'.

In addition a manufactured home cannot be considered a 'dwelling house' under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

LOCAL PLANNING (S117) DIRECTIONS

Council has identified a large number of s117 directions, the proposal is consistent with the majority of those that apply and several of those identified do not apply to the Planning Proposal.

Consistency with s117 direction 4.4 Planning for Bushfire Protection and 4.2 Mine Subsidence and Unstable land cannot be determined until consultation with the Rural Fire Service and Mine Subsidence Board has been completed. Although it is noted that manufactured homes will only be permitted with consent in areas where dwellings are already permitted with consent, these authorities may wish to comment regarding the development controls that will apply.

The Planning Proposal is consistent with all other applicable s117 directions. The Planning Proposal is particularly consistent with s117 direction 3.1 Residential Zones because it will broaden the choice of building types.

The Planning Proposal is considered consistent with s117 directions 2.1 Environment Protection Zones and 2.3 Heritage Conservation because the proposal will require manufactured homes to comply with the development control plan and LEP in relation to matters of environment protection and heritage.

s117 directions 1.1 Business and Industrial Zones, 1.3 Mining, Petroleum Production and Extractive Industries, 3.5 Development Near Licensed Aerodromes, 3.6 Shooting Ranges and 6.3 Site Specific Provisions do not apply to the proposal.

LOCAL PLANNING STRATEGIES

Council's local Strategy 'Lifestyle 2030' has not been endorsed by the Department. Council indicates that the proposal aligns with the strategic directions of the Strategy through seeking housing diversity to meet the needs of users and seeking affordable housing opportunities.

Environmental social economic impacts :

Council's contention that the planning proposal will support housing diversity and contribute to affordability of the housing market is supported.

To manage any environmental or social impacts Council should ensure that the development standards and local development controls that apply to a dwelling house within the LGA also apply to a manufactured home.

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Assessment Process

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

Timeframe to make LEP : **9 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 :

Legal Services

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
17_2_2015 - Planning Proposal - Manufactured Homes as a principal dwelling - 15 October 2014.docx	Proposal	Yes
Council report.doc	Proposal Covering Letter	Yes
draft pc opinion 2015-105-d01.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones**
- 1.2 Rural Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 2.4 Recreation Vehicle Areas**
- 3.1 Residential Zones**
- 3.2 Caravan Parks and Manufactured Home Estates**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 3.5 Development Near Licensed Aerodromes**

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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
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions
- 3.6 Shooting Ranges

Additional Information :

1. Prior to public exhibition Council is to update the Planning Proposal to clarify that consent will still be required for the installation of manufactured Homes consistent with the Local Government Act and Regulations, until their relevant Local Approvals Policy is finalised.
2. Prior to public exhibition Council is to update the Planning Proposal to clarify where a manufactured home may be considered either by zone or site and to include the clause as drafted by Parliamentary Counsel.
3. Prior to public exhibition Council is to update the Planning Proposal to clarify that LEP development standards and local development controls that apply to a dwelling house within the LGA also apply to a manufactured home.
4. Prior to public exhibition Council is to update the Planning Proposal to clarify that a manufactured home cannot be considered a 'dwelling house' under the provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
5. Prior to public exhibition under section 56(2)(d) of the EP&A Act and in respect to relevant s117 directions, consultation is required with;
 - (a) the NSW Rural Fire Service.
 - (b) the Mine Subsidence BoardThese agencies are 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.
6. 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 (Department of Planning & Environment 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 (Department of Planning & Environment 2013).
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 (for example, in response to a submission or if reclassifying land).
8. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

Supporting Reasons :

The Planning Proposal will clarify the permissibility of manufactured homes within Lake Macquarie LGA under the Environmental Planning and Assessment Act 1979.

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Signature:

K. O'Flaherty

Printed Name:

K. O'Flaherty

Date:

1/5/15