

Proposal Title :	Rezone land at F	ormer Swanse	ea Bowling Club 2 Charle	s Street and 27 Lake Road Swa	insea
Proposal Summary : Rezone 4800m2 of infill land formally used as a bo r residential zone.		rmally used as a bowling	club from RE2 Public Recreat	ion to a	
PP Number : PP_2015_LAKEM_006_00		I_006_00	Dop File No :	15/06980	
Proposal Details					
Date Planning Proposal Receive	21-May-2015 ed :		LGA covered :	Lake Macquarie	
Region :	Hunter		RPA :	Lake Macquarie City Cou	ncil
State Electorate :	SWANSEA		Section of the Act	55 - Planning Proposal	
LEP Type :	Spot Rezoning				
Location Details	;				
Street :	2 Charles Street				
Suburb :	Swansea	City :	Lake Macquarie	Postcode : 2281	
Land Parcel :	Lot C DP 402886				
Street :	27 Lake Road				
Suburb :	Swansea	City :	Lake Macquarie	Postcode : 2281	
Land Parcel :	Lot 63 DP 18797				
DoP Planning (Officer Contact Deta	ils			
Contact Name :	amy blakely				
Contact Number					
Contact Email :	amy.blakely@plan	ning.nsw.gov	au		
RPA Contact D	etails				
Contact Name :	Grant Alderson				
Contact Number	: 0249210333				
Contact Email :	jalderson@lakema	c.nsw.gov.au			
DoP Project Ma	anager Contact Deta	ils			
Contact Name :					
Contact Number					
Contact Email :					

Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	No
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 No meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes :

g Background

The subject land forms part of the former Swansea Bowling Club. The remainder of the surplus bowling club land is already zoned R3 Medium Density Residential. The subject land is zoned RE2 Private Recreation and is surrounded by land zoned R3 Medium Density Residential, but is generally being used for standard residential housing. These existing zones are historic and reflect a conversion of the zones which applied under Lake Macquarie Local Environmental Plan 2004.

Following closure of the club, the owner has requested the subject land also be zoned R3 Medium Density Residential.

Council note in Part 1 – Objective or Intended outcomes, "the subject land is generally suitable for residential development, however, is flood prone and in an area vulnerable to increased flood and inundation risks due to sea level rise. Further investigation is required to determine if the land is suitable for housing."

Council propose that if the planning proposal receives a gateway determination to proceed, a flood risk and sea level rise risk management study is required to determine the appropriate housing density of the land. At this stage Council is considering two scenarios - either R3 Medium Density Residential or R2 Low Density Residential.

Proponent Advice

The proponent argues that the flood studies should be completed at the development application stage (attached **).

Key Issues

Swansea is a village located at the entrance to Lake Macquarie from the Pacific Ocean.

one land at Forme	er Swansea Bowling Club 2 Charles Street and 27 Lake Road Swansea
	Flooding is common and the village is expected to be completely inundated by 2100 by sea level rise.
	Flooding The subject land is identified by Council as being High Flood Hazard, as the land is situated between the 1 and 1.5 AHD (Australian Height Datum). The modelled 1% flood (1 in
	100 year) for the lake is 1.38m AHD.
	Sea Level Rise
	Lake Macquarie has been identified as the most vulnerable LGA in NSW to Sea Level Rise impacts (Department of Climate Change, 2009). The average water level in the lake is expected to rise to 1.4m AHD by 2050 and to 2.0m AHD by 2100.
	Council has identified Swansea as a vulnerable community to sea level rise, and has been working to implement programs since 2008 (Planning for coastal and flood hazards in a changing climate, LMCC).
	Recent Gateway determinations relating to flooding risk:
	The Department has recently refused to issue two Gateway determinations in Hawkesbury LGA due to flooding risks. The matter, which was reviewed by the LEP Review Panel, was refused based on the following reasons:
	- there are other sites available which are less constrained - there has been recent amendment for 1400 dwellings, and 580 dwellings in close
	proximity which are not subject to flood risk - The Hawkesbury Residential Land Strategy recommends that high flood risk areas be avoided, with evacuation issues resolved
	 - insufficient justification has been provided to satisfy the Department of the safety of future residents
	- the PP is inconsistent with S117 direction 4.3. Council has not demonstrated the risks can be resolved.
	In the instance of the planning proposal considered in this report, Council proposes further studies (following a Gateway determination) in order to determine whether the level of flood risk can be adequately managed.
External Supporting Notes :	Site History
	The bowling club opened in the 1950's. Many years later, it was discovered that part of the club was constructed on Council owned land at 27 Lake Road. Between the years 2006 and 2011, Council reclassified and rezoned 27 Lake Road from 6(1) Public Open Space to 6(2) Tourism and Recreation under Lake Macquarie Local Environmental Plan 2004, and sold the land to the bowling club. The bowling club ceased operations in March 2013.
lequacy Assessme	nt
Statement of the ol	bjectives - s55(2)(a)
Is a statement of the c	objectives provided? Yes
Comment :	Council seeks to enable the development of the site for residential (subject to the resolution of flood/ sea level rise risk management).

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

Is an explanation of provisions provided? Yes

Comment :

Council is not yet certain of the appropriate zone. Council propose that the land firstly must be determined suitable for housing via a site-specific flood risk and sea level risk management study. The additional flood and sea level rise risk framework can then determine the appropriate zone, based on appropriate development outcomes.

ustification off (2)(0)		
ustification - s55 (2)(C)		
a) Has Council's strate	gy been agreed to by the Di	irector General? No	
b) S.117 directions ide * May need the Direc	ntified by RPA : tor General's agreement	 1.3 Mining, Petroleum Production and Extractive Industries 2.2 Coastal Protection 2.3 Heritage Conservation 3.1 Residential Zones 3.2 Caravan Parks and Manufactured Home Estates 3.4 Integrating Land Use and Transport 4.1 Acid Sulfate Soils 4.3 Flood Prone Land 5.1 Implementation of Regional Strategies 	
Is the Director Gene	eral's agreement required?	Yes	
c) Consistent with Star	ndard Instrument (LEPs) Ord	der 2006 : Yes	
d) Which SEPPs have	the RPA identified?	SEPP (Infrastructure) 2007	
e) List any other matters that need to be considered :			
	vith items a), b) and d) being		
f No, explain :	s117 direction 4.3 Flood Prone Land		
	Direction 4.3 – Flood proposed rezoning.	ne land for residential housing is inconsistent with Ministerial d Prone Land, unless a 'flood risk management plan' supports the	
	"In general, it is like infrastructure and p	Waterway Flood Risk Management Study and Plan states: ly to increase the risk to persons and property if more buildings, eople are located in flood hazard areas and areas vulnerable to on. So land in the lake flood hazard areas should not be re-zoned if elopment intensity"	
	request, and has as	not submitted a flood risk management plan with the rezoning ked for the rezoning proposal to be reported to Council on the basis evel rise matters be deferred to the development assessment stage.	
	the proposal is inco assessment of flood	Department's Coastal and Natural Resources Policy unit advised tha nsistent with s117 Direction 4.3. They advise that a detailed and sea level rise issues should be undertaken (including commer ffice of Environment and Heritage) prior to seeking a Gateway	
	s117 direction 4.1 A	cid Sulfate Soils	
	would not be prepar small, surrounded b	onsistent with this direction because an acid sulfate soils (ASS) stud red as part of the planning proposal process. As the site is relatively by residential development and any future DA would be subject to of Council's LEP, the Secretary may agree that the inconsistency is re.	
	s117 direction 5.1 In	nplementation of Regional Strategies	
	land to residential in	r the proposal is consistent with this direction. While rezoning the n Swansea is consistent with the strategies objectives to increase ntified centres, the strategy also requires that hazards be adequately	

managed. Once further work is undertaken to determine whether hazards/ risks can be adequately managed, consistency with this direction can be reconsidered.

Mapping Provided - s55(2)(e)

Is mapping provided? No

If No, comment : Appropriate zones have yet to be finalised.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :Council recommends that the proposal be exhibited for 14 days minimum. Given the
potential complexity of the studies proposed, a 28 day period is proposed.

Additional Director General's requirements

Are there any additional Director General's requirements? Yes

If Yes, reasons :

The subject land is flood prone. Flood risk is also expected to increase with the site vulnerable to sea level rise. A flood and sea level rise risk management plan should be prepared.

Delegation of plan-making functions

Council has not requested delegations for this proposal. Given the nature, and the unresolved issues, it is not considered appropriate to give Council delegations for this matter.

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? Yes

If No, comment :

Proposal Assessment

Principal LEP:

Comments in relation The Lake Macquarie LEP 2014 co to Principal LEP :	ommenced in October 2014.

Assessment Criteria

Need for planning proposal :	The Department notes that the current RE2 Private Recreation zone is redundant as the site is no longer used for private recreation. Council's decision to investigate an alternative zone is supported.
	Council suggests a residential zone may be suitable. Depending on the zone selected, the planning proposal could result in between 60 (if R3 Medium Density Residential) and 2 residential dwellings (if R2 Low Density Residential) (refer page 19 PP).
	It would provide additional residential accommodation in close proximity to general services in the village of Swansea.
	If the land is not rezoned to permit development, the existing buildings would continue to decline to the detriment of the existing neighbourhood.

Consistency with strategic planning framework :

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (LHRS) identifies that future urban development should not be located in areas of high risk from natural hazards such as flooding and sea level rise, unless assessed within a risk assessment framework adopted by council.

The LHRS aims to focus development in centres, with Swansea identified as a town centre. The site is located within the existing urban footprint and is surrounded by land developed for residential. The surrounding land is zoned for further intensification (R3).

Council should apply planning controls which support growth in centres but to the extent that this can occur without unduly putting people and property at risk. At this stage there is insufficient information to determine whether the proposal is consistent with the regional strategy.

State Policy

The NSW Coastal Planning Guideline: Adapting to Sea Level Rise (August 2010) states:

"consideration should be given to not increasing the zoning intensity in sea level rise investigation areas without more detailed information. Land use intensification refers to processes that increase intensity or density of land use. For example, changing from low density residential to high density residential or from a rural zoning to a residential zoning would result in intensification",

"The Regional Strategies also require councils to manage risk in accordance with flood management studies and coastal hazard studies, including sea level rise. In areas where studies have not been completed, councils are not to zone land or approve development or re-development in potential hazard areas unless assessed within a risk assessment framework."

The NSW Floodplain Development Manual allows development in flood affected areas, provided the risk is adequately assessed and managed.

Lake Macquarie Council

Council adopted the 'Lake Macquarie Waterway Flooding and Title Inundation Policy' in 2008. It adopts the sea level rise benchmarks of 0.4 metres by 2050 and 0.9 metres by 2100. The site is located between the two benchmarks.

The Lake Macquarie Flood Risk Management Study and Plan 2012 recommends the development of local adaption plans to provide further site specific guidance to manage flood and sea level rise risk. Council is currently piloting an adaptation planning process for two other suburbs similar to Swansea (Belmont and Marks Point). Council intends to prepare a similar adaptation plan for Swansea that will provide additional guidance on the management of flood and sea level risk. The finalisation of this planning work is considered to be a few years away.

In recent years, Council has taken a flexible approach in assessing development applications in areas affected by sea level rise. Some applications have been approved, while others have been refused on the basis the risks associated by intensification could not be managed.

It is Council policy that subdivisions proposals for lots below 3.0 AHD will not be approved in green field areas and in-fill subdivisions will only be approved in all new lots have sufficient footprints above 3m AHD to allow for development permitted by the zone. Other issues, such as isolation caused from flooding, safe evacuation routes etc, require strategic assessment.

Department's consideration

The Planning Proposal, at this stage, does not adequately justify the rezoning of the subject land to permit residential development, given its flood status, and vulnerability to

sea level rise. This is a critical factor in the feasibility of the proposal proceeding.

The planning proposal does not determine the level of risk associated with the type and extent of development proposed. Council has not determined an appropriate zone, requesting supporting further flood studies prior the any zone selection.

In the context of the flood risk framework policy of NSW, Council may nominate a residential zone for this site provided Council can demonstrate that the risks associated with the level of intensification proposed can be adequately managed. This strategic framework is considered to provide flexibility to planning outcomes but depends on further investigations being undertaken to justify what is proposed.

The Department notes that Council is in the process of undertaking further strategic work, such as local adaptation plans, to determine future planning options for suburbs such as Swansea. It is accepted that work such as this takes considerable time and community engagement, and while it may affect what happens on this site, the State and Council risk management planning framework provides for the zoning of this site to be considered now.

The proponent argues that all flood studies be deferred until the DA stage (Tab C). The main points include that the surrounding zoning of R3 medium density wouldn't require flood studies until the DA stage, and completion of these studies prior to exhibition may mean they are out-dated or irrelevant at the time development is proposed.

The proponent plans to sell the land once rezoned, and suggests that modelling the hypothetical development outcome therefore has little value. The modelling and assessment of this site will also not take into consideration the remainder of the adjoining land owned by the proponent, which is already zoned R3, but yet to be developed.

Deferring flood and sea level rise risk management studies until the development application process is inconsistent with State and Council policy frameworks, and is not considered appropriate. In addition, section 117 Directions 2.2 Coastal Protection and 4.3 Flood Prone Land apply and require rezonings to demonstrate consistency with their objectives. SEPP 71 Coastal Protection also applies to the site and it requires Councils to consider the impact of coastal process and hazards on development when preparing local environmental plans. A flood and sea level rise risk management study is required to address the risk and evacuation constraints in accordance with the requirements of the Lake Macquarie Waterway Flood Risk Management Study and Plan.

The study should provide resolution to the issues raised by the Department's Coastal and Natural Resources Polity unit. It notes the studies should assess the land suitability for intensification and possible zoning options, and determine that safe and acceptable evacuation routes exist for the increase in occupancy that possible options may facilitate (i.e medium density could result in an additional 60 units). Further, the studies should also demonstrate that the the site is able to support development which can manage the flooding and sea level risk, will not affect neighbouring properties and can be approved under existing development assessment controls.

The Coastal and Natural Resources Polity unit also advises that the studies be provided to the Office of Environment and Heritage (OEH) and NSW State Emergency Service (SES) for comment. This advice is reflected in the recommended Gateway determination conditions.

The regional team however does not agree with the Department's Coastal and Natural Resources Policy unit that this assessment and agency consultation should occur prior to the issuing of a Gateway Determination. The resolution of these matters is the key issue which would inform what zone and level of intensification is appropriate. Provided these issues can be resolved, the land is generally suited for residential development. It is well located, being within the existing urban footprint of Swansea, an established town centre. Further, rezoning the site may allow better design outcomes with the neighboring vacant land already zoned residential.

	The regional team therefore suggests the Gateway support the progression of the proposal, subject to conditions requiring further studies and consultation. Requiring these studies occur following a Gateway determination provides for the key issue to be addressed, and agencies and the community to have formal input on what is proposed.
	Should the studies or consultation identify that risks cannot be adequately managed, Council could elect to not proceed to LEP finalisation. Alternatively Council may identify a different zone which reflects the level of risk, thereby addressing the redundant RE2 zone that currently applies to the site. As plan-making delegation is not proposed to be given to Council, the Minister would have the final say on whether the planning controls would change.
Environmental social economic impacts :	The planning proposal will result in additional residential accommodation close to services.
	The future residence are highly likely to be affected by frequent flood events. In addition to damage to property, there are also social issues resulting from isolation during such events. Insurance can be costly or limited.
	Water and sewage infrastructure servicing the land is flood affected and likely to be affected by sea level rise.

Assessment Process

Proposal type :	Inconsistent		Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months		Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Office of Environmen State Emergency Ser		tage	
Is Public Hearing by the	PAC required?	No		
(2)(a) Should the matter	proceed ?	Yes		
If no, provide reasons :				
Resubmission - s56(2)(t	o) : Yes			
If Yes, provide reasons :	:			
Identify any additional st	udies, if required :			
Flooding If Other, provide reasons	s :			
Identify any internal con	sultations, if required :			
Coastal Zone				
Is the provision and fund	ding of state infrastructur	re relevant	to this plan? No	
If Yes, reasons :				
Planning Team Recom	mendation			
Preparation of the plann	ing proposal supported	at this stag	e : Recommended with Con	ditions
S.117 directions :		um Produc ion	tion and Extractive Industrie	

Rezone land at Former Swansea Bowling Club 2 Charles Street and 27 Lake Road Swansea 3.1 Residential Zones 3.2 Caravan Parks and Manufactured Home Estates 3.4 Integrating Land Use and Transport 4.1 Acid Sulfate Soils 4.3 Flood Prone I and 5.1 Implementation of Regional Strategies Additional Information : The planning proposal be supported on the basis that the following conditions are to apply: 1. Prior to undertaking public exhibition Council is to undertake a site-specific flood risk and sea level rise management study in accordance with Section 117 Direction 2.2 Coastal Hazards and 4.3 Flood Prone Land, that determines: (i) The land is suitable for intensification: safe and acceptable evacuations routes are available from the subject land for а. the additional occupants in a flood event. An evacuation capacity assessment must consider cumulative impacts, considering the number of occupants expected from possible zoning options, and be prepared in consultation with NSW SES documents; and (ii) The land can support development which; can effectively manage the flooding and sea level rise risks; а. will not significantly impact the flood behaviour on adjacent properties; and b. c. Council are assured could be approved under its existing development assessment controls. In the context of flood risk framework policy of NSW, Council is required to determine what residential zone would allow the appropriate level of intensification yet manage the risks appropriately. 2. Council is to update its consideration of the consistency with the section 117 Direction 2.2 Coastal Protection, 4.3 Flood Prone Land, 5.1 Implementation of Regional Strategies and SEPP 71 Coastal Protection in line with the amended planning proposal after additional information has been prepared and public authority consultation has been undertaken. 3. Community consultation is required under sections 56(2)(c) and 57 of the 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 local environmental plans (Department of Planning and Infrastructure 2013). 4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant section 117 Directions: Office of Environment and Heritage **NSW State Emergency Service** Each 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. This should occur prior to community consultation. 5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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). The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :	As discussed within the 'Consistency with strategic planning framework' section, under "Department's consideration".
nel Recommendatio	n
Recommendation Date	: Gateway Recommendation : Passed with Condition
Panel Recommendation :	This proposal was sent to ED Regions for his delegation on 23.6.2015
teway Determination	n
Decision Date :	03-Jul-2015 Gateway Determination : Passed with Condition
Decision made by :	Executive Director, Regions
Gateway Determination	: The planning proposal should proceed subject to the following conditions:
	1. Prior to undertaking public exhibition Council is to undertake a site-specific flood risk and sea level rise management study in accordance with Section 117 Directions 2.2 Coastal Hazards and 4.3 Flood Prone Land, that determines:
	 (i) The land is suitable for intensification: a. safe and acceptable evacuation routes are available from the subject land for the additional occupants in a flood event. An evacuation capacity assessment must consider cumulative impacts, considering the number of occupants expected from possible zoning options, and be prepared in consultation with NSW State Emergency Service documents; and (ii) The land can support development which: a. can effectively manage the flooding and sea level rise risks; b. will not significantly impact the flood behaviour on adjacent properties; and c. Council is assured could be approved under its existing development assessment controls.
	In the context of the flood risk framework policy in NSW, Council is required to determine what residential zone would allow the appropriate level of intensification yet manage the risks appropriately.
	2. Council is to update its consideration of the consistency with the Section 117 Directions 2.2 Coastal Protection, 4.3 Flood Prone Land, and 5.1 Implementation of Regional Strategies and State Environmental Planning Policy 71 - Coastal Protection in line with the amended planning proposal after additional information has been prepared and public authority consultation has been undertaken.
	3. Community consultation is required under sections 56(2)(c) and 57 of the 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 local environmental plans (Department of Planning and Infrastructure 2013).
	4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant section 117 Directions:
	 Office of Environment and Heritage NSW State Emergency Service
	Each 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. This should occur prior to community consultation.

Rezone land at Former Swa	insea Bowling Clu	ib 2 Charles Street and 27 Lake Road	d Swansea	
sec oth	5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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).			
	6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.			
Exhibition period : 28 D	ays	Gateway Timeframe :	12 months	
		Extension Timeframe :	12 months	
		Total Timeframe :	24 months	
		Proposal Due Date for Finalisation:	10-Jul-2017	
		Status:	On-time	
Revised Determination (e.g. I	Extensions & Alteration	ns):		
Implementation				
Cotomor officiations data in 10	0.1.1.2045			
-	0-Jul-2015			
Exhibition start date :		Exhibition end date :	Exhibition duration :	
Public hearing :		Date :		
Date advice received from RPA :		Days with RPA :		
LEP Assessment				
Days with DoP :		Number of submission	ons :	
Additional studies conducte	:d :			
Agency consultation consist with recommendation :	tent			
If No, comment :				
Agency Objections :				
If Yes, comment :				
Documentation consistent with Gateway :				
If No, comment :				
Proceed to Draft LEP :				
If No, comment :				

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Have all necessary changes requested by Council / Department / Agency / Other been made?

If No, comment :

Determination		
Date sent to legal :	Total Days at PC :	Total Days at Legal/DoP :
C Dates Details		
Date sent to PC :	Date returned from PC :	Days at PC :
Other referrals :	Date Sent :	Date Received :
Elapsed Days :		
Date PC provided an opinion that	at draft LEP could be made :	
Have changes been made to the	e draft LEP after obtaining final PC opinion?	
Determination Date :	Determination Decision :	
Notification Date :	Decision made by :	
Link to Legislation Website :		
Internal Supporting notes :		

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Council Report.pdf	Proposal Covering Letter	Yes
Council Resolution.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Gateway Determination PP 2015 LAKEM 006 - Former Swansea Bowling Club.pdf	Determination Document	Yes
2016.6.9 Alteration to Gateway (extention) .pdf	Determination Document	Yes