



Mr Brian Bell
General Manager
Lake Macquarie City Council
PO Box 1906
Hunter Region Mail Centre NSW 2310

Contact: Amy Blakely
Phone: 4904 2700
Our ref: 15/06980
Your ref: RZ/1/2014

Dear Mr Bell

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

I am writing in response to Council's request for a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* (the Act) for a planning proposal at 2 Charles Street and 27 Lake Road, Swansea.

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

As the planning proposal submitted by Council does not adequately address the potential flood and sea level rise impacts, I have conditioned the Gateway determination to require a site specific risk management assessment to determine whether the risks associated with intensification can be adequately managed. Council must consult with the Office of Environment and Heritage and the NSW State Emergency Service as part of this process.

I have agreed the planning proposal's inconsistency with Section 117 Directions 4.1 – Acid Sulfate Soils is of minor significance. No further approval is required in relation to this Direction.

I understand that Council has not sought delegation to make this plan. Having considered the nature of Council's planning proposal, I have decided not to authorise Council to exercise its delegation to make this plan.

The amending Local Environmental Plan (LEP) must be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence exhibition of the planning proposal as soon as possible. Council's request for the Department 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 Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Ms Amy Blakely of the Department's Newcastle office, on (02) 4904 2700.

Yours sincerely



Tim Hurst
Executive Director
Regions, Planning Services

3/1/15

Encl: Gateway Determination



Gateway Determination

Planning proposal (Department Ref: PP_2015_LAKEM_006_00): to introduce flexibility in planning controls for 2 Charles Street and 27 Lake Road, Swansea to facilitate residential development.

I, the Executive Director, Regions, at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the *Lake Macquarie Local Environmental Plan 2014* (LEP) to introduce flexibility into the planning controls for 2 Charles Street and 27 Lake Road, Swansea to facilitate residential development 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.
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.

Dated

3rd day of July

2015.



Tim Hurst
Executive Director
Regions, Planning Services

Delegate of the Minister for Planning