

City Strategy Committee Meeting 14 September 2015

15STRAT051 Administrative Amendment to LMLEP 2014

Council Ref: F2015/00090 - D07433322

Report By: Senior Strategic Landuse Planner - Gabriele Calcagno

Précis:

During preparation of the *Lake Macquarie Local Environmental Plan (LMLEP 2014)* a number of submissions were made by landowners or members of the community seeking changes. Many of these requests were unable to be resolved as a component of the LEP conversion process, but had merit in being pursued once *LMLEP 2014* became operational.

This report seeks a resolution of Council to support preparation of an LEP amendment to address various matters raised, and to forward the Planning proposal to the Department of Planning and Environment for a Gateway determination. The Gateway determination will set the public exhibition period, consultation requirements and timeframes for finalisation of the amendment.

Recommendation:

Council:

- A. Supports the preparation of an Amendment to *Lake Macquarie Local Environmental Plan 2014* in accordance with the Planning Proposal in Attachment 1.
- B. Requests a Gateway determination from the Department of Planning and Environment, pursuant to the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)*, in regard to this Planning Proposal.
- C. Requests the use of delegations in respect of the Minister for Planning's plan making function under section 59 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)* for the Planning Proposal.
- D. Places the Planning Proposal on exhibition and notifies stakeholders as directed by the Gateway determination.
- E. Agrees that, if no public submissions are received during the exhibition period, a report be prepared, under delegation of the General Manager, and forwarded to the Minister to make the Plan.

Background:

LMLEP 2014 came into effect on 10 October 2014.

When draft *LMLEP 2014* was exhibited, Council received a number of submissions requesting changes. The requested changes did not conform to the "conversion principle" that was followed to develop *LMLEP 2014* conforming with State Government LEP template guidelines, from *LMLEP2004*.

Now that *LMLEP 2014* has become operational it is possible to make changes that have merit. Further anomalies have also been identified since *LMLEP 2014* became operational. To resolve these issues and ensure the LEP remains current, a draft amendment to *LMLEP 2014* has been prepared.

City Strategy Committee Meeting 14 September 2015

Proposal:

It is proposed that Council resolves to prepare and support an amendment to *LMLEP 2014*, as shown in the Planning Proposal contained in Attachment 1.

The draft Amendment:

- corrects some administrative changes, errors and anomalies resulting from the *LMLEP 2004* conversion to that of *LMLEP 2014*;
- clarifies the wording and intent of various clauses particularly:
 - clause 1.1 Aims of the Plan – clarifies the importance of the Lake as an entity within the City of Lake Macquarie;
 - clause 7.8 Airspace Operations – changes the name of Belmont Airport to Lake Macquarie Airport;
 - clause 7.10 Residential development in certain business zones – wording changes to include additional permitted residential uses and serviced apartments, as part of mixed use development;
 - schedule 1 Additional Permitted Uses Item No. 3, Use of Certain Land at Catherine Hill Bay – wording to clarify that a subdivision is not required to enable the replacement of an existing dwelling on the site;
 - schedule 2 Exempt development – Sports Field Signage (advertising) – addition of this item to enable exemption from a Development Application if the proposed signage complies with the draft Council Policy for Sports Facilities Advertising. (Note: this draft Policy will be submitted for consideration to a future REPOL Committee meeting).
- updates land affected by Flood Control Lots on the Flood Planning Map;
- updates various heritage property descriptions in Schedule 5;
- removes an Urban Release Area in Morisset from the Urban Release Area Map and Text within the LEP. The removal acknowledges that when the rezoning was prepared, the amendment did not require a site specific DCP, and satisfactory arrangements were made for the provision of infrastructure and services in accordance with Clause 62 of the former LEP 2004.

Consultation:

Consultation has occurred with Council's Development Assessment and Compliance, Community Development, and Sustainability departments, regarding the draft Planning Proposal.

The Gateway determination will outline the consultation requirements including Government agencies to be consulted and public exhibition timeframes.

Implications:

Policy Implications:

Lower Hunter Regional Strategy

City Strategy Committee Meeting 14 September 2015

The Lower Hunter Regional Strategy (LHRS) provides for future population growth and employment opportunities in the Hunter region. The planning proposal is consistent with the objectives of this strategy, and will assist in the delivery of appropriate development within the Local Government Area.

Lifestyle 2030 Strategy (LS 2030)

The Lifestyle 2030 Strategy is a citywide strategic planning document that informed the preparation of the *LMLEP 2014*. It provides the long-term strategic direction for development in the City and describes Council's policies for managing both private and public development, social, environmental, wellbeing, and governance outcomes. The Planning Proposal is consistent with the Lifestyle 2030 Strategy.

State Environmental Planning Policies (SEPPs)

Relevant SEPPs have been considered in the preparation of the Planning Proposal. The proposed administrative amendments are consistent with the relevant SEPPs as detailed in the Planning Proposal at Attachment 1.

Section 117(2) Ministerial Directions

Relevant 117(2) Ministerial Directions have been considered in the preparation of the Planning Proposal. The proposed administrative amendments are consistent with the relevant Ministerial Directions pursuant to Section 117(2) of the *EP&A Act 1979* as detailed in the Planning Proposal at Attachment 1.

Lake Macquarie Local Environmental Plan (LMLEP) 2014

The *LMLEP 2014* governs the permissibility of various types of uses within the Local Government Area (LGA). The proposed amendments ensure that the LEP is current, consistent with legislative requirements, meets community expectations, and provides social opportunities.

The provisions will ensure:

- that development containing residential accommodation or serviced apartments, will have an active street frontage, at the ground floor level of the building facing the primary street across all four business zones,

Draft Sports Facilities Advertising Policy

The draft Sports Facilities Advertising Policy is being prepared by Community Planning staff to address advertising signage at sports facilities, and proposed exemptions from requiring a Development Application. The provisions in the Planning Proposal are consistent with the provisions of this draft Policy.

Environmental Implications:

The proposed amendments to *LMLEP 2014* will have a positive impact on the environment by providing changes which are consistent with the latest legislation and regulations.

The proposed amendments will facilitate:

- a Biodiversity Offsets Site Clause, which will enable the subdivision of land to create specific Biodiversity Offset sites, without the need to comply with the minimum lot size map;

City Strategy Committee Meeting 14 September 2015

- boundary adjustments between lots where one or more resultant lots do not meet the minimum lot size, if the consent authority is satisfied that the subdivision will have minimal environmental impact and will not compromise the continued long-term protection and management of land within an environmental zone.

Social Implications:

The Planning Proposal will not have any detrimental impact on the safety, health or service delivery within the LGA. The draft amendment will assist in better delivery of social outcomes by being current and consistent with legislative requirements.

The Planning Proposal will:

- facilitate development, through changes to the mixed use provisions for the B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core, and B4 Mixed Use business zones.
- exempt sports field advertising (subject to specific criteria) from requiring development consent, which accounts for approx. 85% of potential signage applications.
- update property descriptions, Lot and DP references, and addresses existing heritage items.
- update land affected by Flood Control Lots on the Flood Planning Map.
- allow the replacement of an existing dwelling house without the requirement of a subdivision for certain land at Catherine Hill Bay.

Infrastructure Asset Implications:

There are no Infrastructure Implications associated with the Planning Proposal.

Financial Implications:

There are no financial implications with the proposed changes to the *LMLEP 2014*.

There is minimal risk or insurance implications to Council with the processing of this amendment. The preparation of an amendment to *LMLEP 2014* is a regular Council activity governed by the provisions of the *EP&A Act 1979*. The level of risk attached to this activity will be minimised through following the process as established by the *EP&A Act 1979* and *Environmental Planning and Assessment Regulation 2000* as well as Council's Amending Local Environmental Plan Procedure and Policy.

Options:

1. Council resolves to support the preparation of a Planning Proposal, and to request a Gateway determination. This will ensure that *LMLEP 2014* is consistent with Council's statutory obligations, and meets community expectations. This is the recommended option.
2. Council does not support the Planning Proposal and ceases the LEP amendment process. This is not the preferred option, as this will retain errors, and not incorporate changes into *LMLEP 2014* that have merit.

Conclusion:

City Strategy Committee Meeting 14 September 2015

The proposed Amendment to *LMLEP 2014* is consistent with the Lower Hunter Regional Strategy, Council's Lifestyle 2030 Strategy, relevant SEPPs, and s.117 Ministerial Directions. Updating the LEP on a regular basis ensures that *LMLEP 2014* reflects best practice and meets the community expectations.

It is recommended that Council resolves to request a Gateway determination from the Department of Planning and Environment to enable the Planning Proposal to progress.

Manager - Integrated Planning - Sharon Pope

Attachments:

1. Planning Proposal - Administrative Amendment D07532479