

Amendment to Lake Macquarie LEP 2004 - Ausgrid Land, Swansea

Proposal Title : Amendment to Lake Macquarie LEP 2004 - Ausgrid Land, Swansea

Proposal Summary : This Planning Proposal aims to amend the Lake Macquarie LEP 2004 (LM LEP 2004) by:
 1. Removing Lake Macquarie City Council's public land acquisition obligation under clause 55 (Acquisition of land required for community purposes) from Lot 11 DP 855023; and
 2. Rezoning part of Lot 11 DP 855023 from Zone 6(1) Open Space Zone to Zone 6(2) Tourism and Recreation Zone under LM LEP 2004.

PP Number : PP_2011_LAKEM_011_00 Dop File No : 11/18905

Planning Team Recommendation

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

S.117 directions : 1.3 Mining, Petroleum Production and Extractive Industries
 2.1 Environment Protection Zones
 2.2 Coastal Protection
 3.4 Integrating Land Use and Transport
 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
 6.2 Reserving Land for Public Purposes

Additional Information : It is recommended that:

1. The Planning Proposal be supported.
2. The Gateway determine that supplementary material provided by Council to the Department in regards to clarification of the proposal, s117 Directions and land use information should be inserted into the Planning Proposal prior to exhibition.
3. A copy of the Memorandum of Understanding between Lake Macquarie Council and Ausgrid regarding the establishment of a permanent public access over the land to the lake foreshore should be publicly exhibited with the Planning Proposal.
4. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 ('EP&A Act') as follows:
 - (a) the Planning Proposal be made publicly available for 28 days;
 - (b) the relevant 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 4.5 of A Guide to preparing LEPs (Department of Planning 2009)
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - * NSW Department of Primary Industries (Minerals & Petroleum)
 - * Mine Subsidence Board
 - * NSW Rural Fire Service
6. The Director General (or delegate) agree with the following section 117 Direction inconsistencies - 2.2 Coastal Protection as the inconsistency is justified by a study prepared in support of the Planning Proposal; 3.4 Integrating Land Use; 4.1 Acid Sulfate Soils; and 6.2 Reserving land for Public Purposes, as the inconsistencies are of minor significance.

Consultation is required with the NSW Department of Primary Industries (Mining), the Mine Subsidence Board, and NSW Rural Fire Service to determine consistency with section 117 Directions - 1.3 Mining, Petroleum Production & Extractive Industries; 4.2 Mine Subsidence and Unstable Land; and 4.4 Planning for Bushfire Protection respectively.

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.

8. The time frame for completing the LEP is 9 months from the date of the Gateway Determination.

Supporting Reasons : Lake Macquarie Council has indicated that they no longer wish to acquire the site for public purposes. In this circumstance, land acquisition liabilities are a Council responsibility.

Panel Recommendation

Recommendation Date : 15-Dec-2011

Gateway Recommendation : Passed with Conditions

Panel Recommendation : The Planning Proposal should proceed subject to the following conditions:

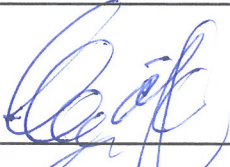
1. The supplementary material provided by Council to the Department in regards to clarification of the proposal, s117 Directions and land use information is to be included in the planning proposal prior to exhibition.
2. A copy of the Memorandum of Understanding between Lake Macquarie Council and Ausgrid regarding the establishment of a permanent public access over the land to the lake foreshore should be publicly exhibited with the planning proposal.
3. 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 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 4.5 of A Guide to Preparing LEPs (Department of Planning 2009).
4. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Department of Primary Industries – Minerals and Petroleum
 - Mine Subsidence Board
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

5. Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.

6. 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).

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

Signature:		
Printed Name:	<u>Neil McGaffin</u>	Date: <u>21.12.11</u>