

Draft Lake Macquarie LEP 2004 (Amendment No.82)

Proposal Title : **Draft Lake Macquarie LEP 2004 (Amendment No.82)**

Proposal Summary : **The planning proposal will rezone the Charlton Christian College site from 10 Investigation to 2(1) Residential and 7(2) Conservation (Secondary); and will also rezone part of the railway corridor from 10 Investigation to 5 Infrastructure and 7(2) Conservation (Secondary).**

PP Number : **PP_2013_LAKEM_011_00** Dop File No : **13/11841**

Proposal Details

Date Planning Proposal Received :	15-Jul-2013	LGA covered :	Lake Macquarie
Region :	Hunter	RPA :	Lake Macquarie City Council
State Electorate :	LAKE MACQUARIE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	43 Fassifern Road		
Suburb :	Fassifern	City :	Fassifern
Land Parcel :	Lot 1 DP 882105	Postcode :	2283
Street :	18 Tucker Close		
Suburb :	Fassifern	City :	Fassifern
Land Parcel :	Lot 4 DP 926559	Postcode :	2283

DoP Planning Officer Contact Details

Contact Name : **Susan Blake**
 Contact Number : **0249042700**
 Contact Email : **susan.blake@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Angel Troke**
 Contact Number : **0249210470**
 Contact Email : **atroke@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 :	N/A
Regional / Sub Regional Strategy :	Lower Hunter Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	11.00	Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	80	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 : **Council resolved on 8 July 2013 to send the Planning Proposal to the Department of Planning & Infrastructure requesting a Gateway Determination.**

Council also requested the use of delegations in respect of the Minister for Planning & Infrastructure's plan making function under s59 of the EP&A Act for this planning proposal.

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

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

Comment : **The statement of objectives satisfactorily explains the intent of the planning proposal (PP) to rezone the land to allow for the continued operation and expansion of Charlton Christian College and the conservation of the western corridor. Also to rezone a small area of the adjoining railway corridor to allow for continued railway use.**

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

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

Comment : **The explanation of provisions indicates that the PP is intended to be delivered through a amendment to the Lake Macquarie LEP 2004 (LM LEP 2004).**

Draft Lake Macquarie LEP 2013 (LM LEP 2013) has been prepared and publicly exhibited. Should LM LEP 2013 be made prior to finalising this PP, then this proposal will be finalised as an amendment to the LM LEP 2013 with land use zoning, minimum lot size, and height of building provisions consistent with those of LM LEP 2013. This is outlined within this

PP.

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

1.3 Mining, Petroleum Production and Extractive Industries

2.1 Environment Protection Zones

2.2 Coastal Protection

3.1 Residential Zones

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

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 No 19—Bushland in Urban Areas

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Infrastructure) 2007

e) List any other matters that need to be considered :

Requirements relating to s117 Direction and SEPPs are discussed under the Assessment Tab of this report.

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain :

Inconsistencies are considered within the assessment section of this report. Additional information is required in relation to SEPP 55. Consultation with relevant agencies is required before consistency or otherwise can be determined for several s117 directions.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Council intends to exhibit the proposal consistent with the Gateway requirement and to consult with various State agencies to ensure consistency with s117 Directions and SEPPs. It is noted that due to the residential zoning and the school's proximity to Fassifern Road, Council has requested consultation with Roads and Maritime Services to assess traffic/transport impacts.

A 14 day exhibition is recommended because of the relatively minor nature of the PP.

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 : **December 2013**

Comments in
relation to Principal
LEP :

The draft comprehensive Lake Macquarie LEP 2013 was exhibited from 21 November until 21 December 2012. Council have submitted the document to the Department under section 68, and it is expected to be completed later in 2013.

Assessment Criteria

Need for planning
proposal :

The Charlton Christian College site was zoned Rural 1(a) in LM LEP 1984. The site was given development consent for a school in 1998 and has since been constructed with a number of recent additions to the College. In the LM LEP 2004, the land was zoned 10 Investigation. Council is unclear as to the exact reason for the 10 Investigation zone, however in the draft Lifestyle 2020 Strategy the site is identified for community facilities, medium density housing and conservation. There may also have been potential for senior living or medium density housing adjoining the school. Council notes that the school has since grown, and there is now limited land for potential housing, the previously identified housing area now contains a new oval that has recently been constructed for the College.

Development for the purpose of an educational establishment is currently prohibited in the 10 Investigation zone under LM LEP 2004, and the proposed RU6 Transition zone in draft LM LEP 2013.

The College has plans to submit to Council a revised master plan to allow its expansion from 600 to 880 students. The rezoning is necessary to permit educational establishment uses to permit future development without reliance on existing use rights.

The 2(1) Residential zone and 450 sqm minimum lot size is consistent with the zoning of other school sites within the Lake Macquarie LGA and is consistent with the surrounding low density residential uses.

Consistency with
strategic planning
framework :

State Environmental Planning Policies (SEPP)

The proposal is consistent with relevant SEPPs.

SEPP 19 - Bushland in Urban Areas. The site contains bushland and although there are some impacts on the bushland as outlined in the proponent's masterplan and zoning plan, the majority of this bushland is proposed to be conserved through appropriate zoning. The PP is considered consistent with the SEPP, which requires Council to give priority to retaining bushland, unless it is satisfied that environmental, economic or social benefits will arise which outweigh the value of the bushland. The expansion of the College will provide benefits providing education for the growing population.

SEPP 44 - Koala Habitat Protection. The site is identified as having potential koala habitat. Council notes that numerous fauna surveys have been undertaken on the land since 1997, including targeted searches for koala presence. No signs of koala or koala presence have been detected in any part of the site during these field surveys. Consequently, the site is not identified as having core koala habitat, and the rezoning is unlikely to impact on koala habitat. The PP is consistent with the SEPP.

SEPP 55 - Remediation of Land. Council has reviewed aerial photography from 1951 until 1998: the site was vegetated and contained bush tracks and an easement. The site has been operating as a school since 1998. The subject land was zoned rural previously. Council indicates that given the site as bushland, it is unlikely the site would be contaminated. There may have been some illegal dumping in the school grounds in the past, but the school grounds are now fenced restricting access and are cleared of any rubbish.

As per the SEPP requirements, Council has not indicated in the PP that the land is suitable for all the permitted uses/purposes within a residential zone. A preliminary investigation of the land in accordance with the contaminated land planning guidelines has not been included within the PP, and will be required to ensure consistency with the SEPP.

SEPP 71 - Coastal Protection. The subject land is approximately 220m from the edge of Lake Macquarie. The PP is considered sufficiently consistent with the aims and objectives of the SEPP, seeks to conserve part of the site and does not impact on access to the foreshore.

SEPP (Infrastructure) 2007. The SEPP contains provisions which allow for the continued use of the site as an educational establishment and therefore the PP is considered consistent. However the SEPP does not allow for the increase in scale, hence an amendment to the LEP is required.

Lower Hunter Regional Strategy (LHRS)

The site is located within Fassifern, which is not within close proximity to any identified regional centre in the LHRS, however it is located within proximity to the Toronto Town Centre. The PP is consistent with the SEPP.

The continued use and expansion of the site as an educational establishment will assist in providing educational needs to the increasing population identified within the LHRS. Conservation of part of the site is consistent with the conservation objectives of the LHRS.

Local Strategy

Council has assessed the PP against the strategic directions contained within its Lifestyle 2030 Strategy. The proposal accords with, and is considered to be consistent with these strategic directions.

Section 117 Directions

The PP is considered consistent, or able to be consistent following consultation, with all

relevant s117 Directions. In particular;

1.3 Mining Petroleum and Extractive Industries. The site is located within 1km of the existing Fassifern Colliery. Council's contends that the PP is unlikely to impact on mining, petroleum or extractive industries as the PP will allow the existing school to continue expansion operations. Council intends to consult with the Director-General of the Department of Primary Industries - Minerals and Petroleum post the Gateway Determination. Consistency with this direction will be clarified following this consultation.

2.1 Environmental Protection Zones. Although there will be some loss of vegetation this is not currently zoned for environmental protection and the PP seeks to zone other parts of the site for conservation purposes to ensure protection of threatened flora and fauna. Consequently, the PP is considered consistent with this direction.

2.2 Coastal Protection. The site is within the coastal zone, being 220m from the edge of Lake Macquarie. The PP gives consideration to the NSW Coastal Policy, and associated guidelines and consequently is considered consistent with this direction.

3.1 Residential Zones. The site is to be rezoned residential although the intention is to permit the continued operation and expansion of the existing educational establishment, a use that may restrict provision of housing on this site. However, as Council notes the residential zoning is consistent with zoning for other school sites within Lake Macquarie LGA. The PP is considered consistent with this direction because the controls will encourage the provision of housing if the current use ceases.

3.4 Integrating Land Use and Transport. The site is located within proximity to the Fassifern Railway Station, located along Fassifern Road and serviced by buses and cycleway. The PP is considered consistent with this direction.

4.1 Acid Sulfate Soils. The site contains Class 5 Acid Sulfate Soils. Council's LEP and DCP contain appropriate provisions to ensure impacts are minimised. The PP is considered consistent with this direction.

4.2 Mine Subsidence and Unstable Land. The subject land is located within a mine subsidence district. Council intends to consult with the Mine Subsidence Board post gateway in accordance with the s117 Direction. Consistency with this direction will be clarified following this consultation.

4.4 Planning for Bushfire Protection. The site is identified as bushfire prone land, and therefore consultation with the NSW Rural Fire Service prior to exhibition is required. Consistency with this direction will be clarified following this consultation.

5.1 Implementation of Regional Strategies. The PP is considered consistent with the LHRS.

Environmental social
economic impacts :

Council has assessed the environmental, social and economic outcomes of the site.

The site is densely vegetated in the northwest and southwest and contains threatened flora and fauna species. Flora and fauna studies have been prepared along with a Conservation Management Plan, which sets out management strategies for the preservation and rehabilitation of various flora species. There will be removal of vegetation as a result of future development, and a 7 Part Test has been undertaken as part of the proponent's Masterplan. Council indicates that the flora and fauna assessment report makes a number of recommendations to minimise impacts and these can be addressed at the DA stage.

Council has identified matters including bushfire, stormwater, traffic and acoustic impacts will be assessed as part of the PP or DA.

The rezoning will allow for the continued use and expansion of the College which will assist in providing schooling needs for the community having positive economic and social outcomes.

Assessment Process

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

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Minerals and Petroleum
Mine Subsidence Board
NSW Rural Fire Service
Transport for NSW - RailCorp
Transport for NSW - Roads and Maritime Services**

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 :

No internal consultation required

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Appendix_B_Revised_Concept_MasterPlan.pdf	Study	Yes
Appendix_C_Ecological_Assessment.pdf	Study	Yes
Appendix_D_Bushfire_Assessment.pdf	Study	Yes
Appendix_E_Traffic_Impact_Assessment.pdf	Study	Yes
Appendix_F_Acoustic_Assessment.pdf	Study	Yes
Council_Meeting_Action_Item_Planning_Proposal_Charlton_Christian_College.pdf	Study	Yes
Council_Report_Planning_Proposal_Charlton_Christian_College.pdf	Study	Yes
Planning_Proposal_Charlton_Christian_College_43_Fassifern_Road_Fassifern.pdf	Proposal	Yes
Proposal_Letter_Lake_Macquarie_City_Council_PP_Charlton_Christian_College_43_Fassifern_Road_Fassifern.pdf	Proposal Covering Letter	Yes
Evaluation_Criteria_Delagations_of_Plan_Making_Charlton_Christian_College_43_Fassifern_Road_Fassifern.pdf	Determination Document	No

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
 3.1 Residential Zones
 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

Additional Information : **The Planning Proposal should proceed with conditions:**

1. The planning proposal should be finalised as an LEP within 9 months. A 9 month time-frame is recommended based on Council's projected timeline and because of the relative minor nature of the planning proposal.

2. A 14 day community consultation exhibition period is recommended because of the relative minor nature of the planning proposal. Consultation with relevant State authorities and agencies are listed below:

- * Mine Subsidence Board (to determine consistency with s117 Direction - 4.2 Mine Subsidence and Unstable Land)**
- * Rural Fire Service (to determine consistency with s117 Direction 4.4 Planning for Bushfire Protection)**
- * Department of Primary Industries - Minerals and Petroleum (to determine consistency with s117 Direction 1.3 Mining, Petroleum Production & Extractive Industries)**
- * Roads and Maritime Services**
- * RailCorp**
- * Office of Environment and Heritage**

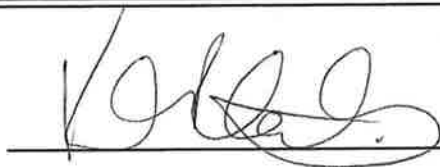
Prior to undertaking public exhibition, Council is to amend the Planning Proposal, if necessary, to take into consideration any comments made.

3. Council undertake a preliminary investigation of the land in accordance with the contaminated land planning guidelines to ensure that the land is suitable for the permitted uses/purposes within a residential zone for the purposes of SEPP 55.

4. Council exercise their plan making delegations under section 59(1) of the EP&A Act.

Supporting Reasons : **The rezoning will allow the continued use and expansion of the Charlton Christian College and will assist with providing educational needs for the community. Additionally, the rezoning will provide conservation of the western vegetated corridor. The PP will also rezone a small area of the adjoining railway corridor to allow for continued railway use.**

Signature:



Printed Name:

K. O'FLAHERTY

Date:

5/8/13