

City Strategy Committee Meeting 12 May 2014

14STRAT014 Planning Proposal Relating to Newcastle - Lake Macquarie Local Government Boundary Adjustment

Council Ref: F2009/01302 - D06880310
Report By: Senior Strategic Landuse Planner - Matthew Hill

Précis:

On 27 July 2009, Council resolved to make a joint application, with The City of Newcastle, to the Minister for Local Government to alter the boundary between Newcastle and Lake Macquarie local government areas (LGA's). Advice from the Division of Local Government indicates that the boundary adjustment is imminent.

Once the boundary adjustment occurs, there will be a need for Council to prepare a Planning Proposal to amend draft Lake Macquarie Local Environmental Plan 2014 (draft LMLEP 2014). The Planning Proposal is necessary to ensure land use provisions apply to land being transferred from Newcastle to Lake Macquarie. It is intended that the Planning Proposal will be lodged jointly with The City of Newcastle, and will also seek to amend Newcastle Local Environmental Plan 2012 (NLEP 2012).

Recommendation:

Council:

- A. Prepares a Planning Proposal as contained in Attachment 1, to ensure provisions applying to the subject land are consistent with provisions applying more broadly to Lake Macquarie LGA.
- B. Requests a Gateway determination from NSW Planning and Infrastructure pursuant to the *Environmental Planning and Assessment Act 1979*.
- C. Undertakes consultation with State Government agencies and service authorities, if required by the Gateway determination.
- D. Places the Planning Proposal on public exhibition, as required by the Gateway determination.
- E. If no objections are received during the public exhibition period, requests that the Minister make the Plan and notifies stakeholders and affected landowners of the Minister's decision.

Background:

On 27 July 2009, (09STRAT002), Council resolved to make a joint application, with The City of Newcastle, to the Minister for Local Government to alter the boundary between Newcastle and Lake Macquarie local government areas (LGA's). The amendment relates to the section between the M1 Motorway and Lake Road, Elmore Vale, and intends to follow the catchment boundary between Lake Macquarie and Hexham Swamp, as far as practical, and also to bring the whole of the Macquarie Christian College site within the Lake Macquarie LGA.

Since then, a major subdivision has recently been approved by the Planning Assessment Commission for the development of Coal and Allied land around Minmi. The existing local

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government boundary does not fit well with the approved concept plan. Initial discussions are also taking place regarding the Xstrata land to the east of the Coal and Allied major project approval.

The proposed boundary adjustment will mitigate:

- service delivery inconvenience;
- confusion over responsibilities; and
- additional complications in decision-making.

The Division of Local Government has advised that the boundary adjustment is imminent.

A Planning Proposal to amend NLEP 2012 and draft LMLEP 2014 is necessary, as the boundary adjustment will result in land being transferred between Newcastle and Lake Macquarie LGA's. The transfer process effectively makes the land "unzoned". The Planning Proposal will ensure land use provisions on land to be transferred between Newcastle and Lake Macquarie LGA's are consistent with provisions across the rest of each City.

It is intended that the Planning Proposal will be submitted jointly by Lake Macquarie City Council and The City of Newcastle. NSW Planning and Infrastructure (NSW P & I) indicated that it may be possible to process the Planning Proposal pursuant to section 73A of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979), which provides a streamlined process.

Proposal:

It is proposed that Council resolves to:

1. Prepare a Planning Proposal, as contained in Attachment 1, to ensure provisions applying to the subject land are consistent with provisions applying more broadly to Lake Macquarie LGA; and
2. Requests a Gateway determination from NSW Planning and Infrastructure, for this Planning Proposal, pursuant to the *Environmental Planning and Assessment Act 1979*.

Consultation:

Council staff attended a meeting with NSW P&I to discuss how best to resolve land use on land to be transferred between each LGA. NSW P&I advised that a Planning Proposal is necessary.

Implications:

Policy Implications:

The Planning Proposal seeks to amend NLEP 2012 and draft LMLEP 2014 to remove any uncertainty and/or conflict between LEP's, and to provide certainty to landholders. The amendment seeks to be a conversion of provisions, although there will not necessarily be a perfect transfer from one LEP to another. As outlined in the Planning Proposal, it is intended that existing provisions will be converted to the relevant LEP as closely as possible, however, there is not an exact match in the application of provisions for each council.

The part of Lot 305 DP 1107690 which will be transferred to Lake Macquarie LGA is currently zoned E4 Environmental Living under NLEP 2012 with a minimum lot size of

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40ha. It is proposed that this land will be rezoned to RU6 Transition under draft LMLEP 2014, which has a corresponding minimum lot size of 200ha. This decision was made due to the historical nature of the land being within an investigation zone, and the current E4 Environmental Living zone under NLEP 2012 containing an objective reflecting this, which states:

To provide for the development of land for purposes that will not, or will be unlikely to, prejudice its possible future development for urban purposes or its environmental conservation.

This is similar to the objective within RU6 Transition zone under draft LMLEP 2014, which states:

To limit development to development that will not prejudice or have the potential to prejudice future conservation and/or development of the land.

Environmental Implications:

Nil.

Social Implications:

The amendment will provide certainty to the community in respect of the application of land use and development provisions. The Planning Proposal is necessary to avoid conflict between the application of LEP's to the land, or an absence of applicable provisions to part of the land.

Infrastructure Asset Implications:

Nil.

Financial Implications:

There are minor costs associated with staff used to process the Planning Proposal and associated amendment to the LEP in accordance with Council's procedure for amending LEPs.

Risk and Insurance Implications:

The preparation of an amendment to the LEP 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 procedure.

Options:

Council:

1. Supports the Planning Proposal and seeks an amendment to draft LMLEP 2014 to ensure the provisions of the LEP apply appropriately to the land to be transferred to Council. This is the recommended option.
2. Does not support the Planning Proposal and does not seek to amend draft LMLEP 2014. This would result in administration problems for land use policy and decision-making on the subject land.

Conclusion:

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The Planning Proposal and subsequent LEP amendment are proposed to resolve the administration of land use and development provisions as a result of an imminent local government boundary adjustment. This is necessary to provide clarity around the application of LEP provisions for the subject land within each LGA.

Manager - Integrated Planning - Sharon Pope

Attachments:

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| 1. Planning Proposal - Land Use Relating to Local Government
Boundary Adjustment | D06963003 |
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