

Warners Bay Town Centre

Proposal Title : **Warners Bay Town Centre**

Proposal Summary : **The proposal applies to the Warners Bay town centre which is a deferred matter from the Lake Macquarie LEP 2014. The proposal seeks to have the draft Lake Macquarie LEP 2014 apply to the site, introducing equivalent land use zones and higher maximum building heights. Heritage, minimum lot size, flood planning and acid sulfate soil provisions from existing policies will also be transferred to the LEP.**

PP Number : **PP_2014_LAKEM_001_00**

Dop File No : **14/13787**

Proposal Details

Date Planning
Proposal Received : **14-Aug-2014**

LGA covered : **Lake Macquarie**

Region : **Hunter**

RPA : **Lake Macquarie City Council**

State Electorate : **CHARLESTOWN**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **Warners Bay Town Centre**

DoP Planning Officer Contact Details

Contact Name : **Dylan Meade**

Contact Number : **0249042718**

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RPA Contact Details

Contact Name : **Wesley Hain**

Contact Number : **0249210395**

Contact Email : **whain@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**

Warners Bay Town Centre

MDP Number :

Date of Release :

Area of Release (Ha) : **6.00**

Type of Release (eg Residential / Employment land) : **Both**

No. of Lots : **0**

No. of Dwellings (where relevant) : **500**

Gross Floor Area : **0**

No of Jobs Created : **1,000**

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 :

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 provided explains the objective is to introduce planning control for the deferred matter of Warners Bay town centre into the Lake Macquarie LEP 2014.**

The planning proposal converts existing land use zones from the Lake Macquarie LEP 2004 to equivalent zones under the Lake Macquarie LEP 2014. The proposal does not intend to rezone land except for 30A Charles Street from R3 to B4 to enable a range of business type development on the lot and encourage consolidation with 25 Lake Street. Existing controls from DCP or other policies for lot size, flood planning, acid sulfate soils and heritage will also be implemented into the LEP through the planning proposal. The planning proposal will seek to introduce higher maximum height of building controls, increasing the maximum height from 13m to 22m.

The statement of objectives is supported.

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

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

Comment : **The explanation of provisions provided explains that the planning proposal will be achieved through an amendment to Lake Macquarie LEP 2014 by changes to the:**
***Land Application Map**
***Land Zoning Map**
***Height of Buildings Map**
***Lot Size Map**
***Flood Planning Map**

*Acid Sulfate Soils Map

*Heritage Map

The explanation of provisions is supported.

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

1.1 Business and Industrial Zones

1.3 Mining, Petroleum Production and Extractive Industries

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

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

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

Is the Director General's agreement required?

c) Consistent with Standard Instrument (LEPs) Order 2006 :

d) Which SEPPs have the RPA identified?

SEPP No 32—Urban Consolidation (Redevelopment of Urban Land)

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Mining, Petroleum Production and Extractive Industries)
2007

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

It is understood that Council may have an interest in land subject to the planning proposal. Although councils are not legislatively required to identify land it has an interest in when amending LEPs, to enable transparency, Council should amend the planning proposal to identify any land it owns.

Have inconsistencies with items a), b) and d) being adequately justified? Yes

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

Council proposes a 42 day consultation period to allow the community with adequate time to consider and comment on the planning documents. Council advises a draft strategic Planning Framework, revised Town Centre Area Plan and draft Streetscape Master Plan will be exhibited with this planning proposal. Exhibiting the Planning Proposal with other documents is supported.

The planning proposal is considered a low impact proposal in that it is consistent with the strategic framework and surrounding land uses, does not reclassify land, and is not a principal LEP. It is recommended that a minimum 14 day community consultation period be required, however Council be advised it may extend the exhibition period in

line with other exhibited documents should community interest require this.

Council advises proposed consultation with the following State agencies:

- Roads and Maritime Service
- Mine Subsidence Board (under s117 Direction 4.2)
- Rural Fire Service (under s117 Direction 4.4)

Consultation with the above agencies is supported. In addition, it is also recommended that Council consult with OEH in regards to consistency with s117 Direction 4.3.

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 : **August 2014**

Comments in
relation to Principal
LEP :

The Standard Instrument (SI) Lake Macquarie LEP 2014 will be finalised shortly.

Amendments to the Warner Bay Town Centre were exhibited as part of the draft Lake Macquarie LEP 2014. However, due to the issues raised Council resolved to defer the land from the SI LEP and resolve the matters by a stand alone planning proposal.

Assessment Criteria

Need for planning
proposal :

The planning proposal is required to implement planning controls for the subject site. The subject site is deferred from the draft Lake Macquarie LEP 2014.

The planning proposal implements the draft Warners Bay Town Centre Planning Framework.

Consistency with strategic planning framework :

LOWER HUNTER REGIONAL STRATEGY

Warners Bay is identified in the LHRS as a town centre. The planning proposal is consistent with outcomes for centres outlined in the LHRS as it facilitates the concentration of activities within the Warners Bay town centre. The planning proposal also maximises redevelopment and infill opportunities for medium and high density housing within the centre. The planning proposal is considered consistent with the LHRS.

STATE ENVIRONMENTAL PLANNING POLICIES

Council identifies SEPP 44 - Koala Habitat Protection, SEPP 55 – Remediation of Land, SEPP 71- Coastal Protection, and SEPP Mining, Petroleum Production and Extractive Industries 2007 as applicable to the planning proposal. The planning proposal is considered either not applicable or consistent with these, and all other SEPPs.

SECTION 117 DIRECTIONS

***2.2 Coastal Protection**

This Direction is applicable as the subject site is within the coastal zone. The planning proposal is considered consistent with this Direction.

***2.3 Heritage**

The planning proposal is consistent with this Direction as it continues the protection of a heritage item previously identified in the Lake Macquarie LEP 2004.

***3.1 Residential Zones**

The draft Lake Macquarie LEP 2014 contains Clause 6.2 - Public utility infrastructure, which requires that residential development is not permitted until land is adequately serviced. The planning proposal is considered consistent with this Direction.

***3.4 Integrating Land Use and Transport**

The planning proposal is considered consistent with this Direction as it encourages more intensive development in an established centre.

***4.1 Acid Sulfate Soils**

This Direction is relevant as the subject site contains Class 3 and Class 5 Acid Sulfate Soils. Clause 6 of this Direction requires that Council must not prepare a planning proposal that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils on the Acid Sulfate Soils Planning Maps unless the relevant planning authority has considered an acid sulfate soils study assessing the appropriateness of the change of land use given the presence of acid sulfate soils. Council has not considered an acid sulfate soils study.

The inconsistency with this Direction is considered of minor significance as the planning proposal does not include additional land uses or land that will be disturbed, and only permits high buildings. Clause 7.1 Acid Sulfate Soils of the Lake Macquarie LEP 2014 ensures that future development does not disturb, expose or drain acid sulfate soils and cause environmental damage. Any impacts on acid sulfate soils will be considered during development assessment.

***4.2 Mine Subsidence and Unstable Land**

This Direction is applicable as the subject site is within the Lake Macquarie Mine Subsidence District. As the planning proposal permits development on the land, Council is required under Clause 4(a) to consult with the Mine Subsidence Board (MSB).

*** 4.3 Flood Prone Land**

The Direction is applicable as part of the subject area is subject to flooding. The planning proposal is inconsistent with this direction, as it permits an increase in the development of flood prone land. The planning proposal will allow buildings with heights up to 22 m. Currently building up to 13m are permitted.

The subject site is also identified in the Lake Macquarie Waterway Flood Study as an area subject to potential inundation under current sea level projections.

The flood prone area will be identified on the flood planning map in the Lake Macquarie LEP 2014, and thus Clause 6.3 Flood Planning will apply to affected development.

It is considered that the inconsistency with this Direction is of minor significance as flood planning can be adequately managed through the development assessment process under the provisions of the Clause 6.3 Flood Planning. However, Council should amend the planning proposal to explain how flood planning and sea level rise will be mitigated given the increases in permitted development intensity in the Warners Bay town centre. It is also not apparent if flooding and sea level rise has been considered in the planning process to date. The planning proposal should clarify if this is the case or not.

***4.4 – Planning for Bushfire Protection**

This Direction is relevant as the subject site contains a small area of bushfire fire prone land. As required by Clause (4) of this Direction, Council is required to consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination.

***5.1 Implementation of Regional Strategies**

The planning proposal is considered consistent with this Direction as it is consistent with the Lower Hunter Regional Strategy as outlined earlier.

Environmental social
economic impacts :

ENVIRONMENTAL

The land is already developed for urban purposes and the proposal will permit higher buildings. There will be no loss of vegetation.

Part of the site is identified as containing flood prone land and acid sulfate soils. An assessment of these issues is discussed under relevant S117 Directions.

It is considered that there are no environmental impacts associated with the proposal.

SOCIAL

The planning proposal will enable additional housing and businesses in a location close to existing services and community facilities. It is considered that there are no negative social impacts associated with the proposal.

ECONOMIC

It is considered that there are no negative economic impacts associated with the proposal.

Assessment Process

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

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Mine Subsidence Board
NSW Rural Fire Service
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 :

Warners Bay Town Centre

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

Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 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
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

It is recommended that an amendment to the Lake Macquarie Local Environmental Plan (LEP) 2014 to resolve the deferred matter at Warners Bay Town Centre should proceed subject to the following conditions:

1. 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 is classified as low impact as described in A Guide to Preparing LEPs (Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 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 LEPs (Planning & Infrastructure 2013).

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:

- Mine Subsidence Board (S117 Direction 4.2 - Mine Subsidence and Unstable Land)
- NSW Rural Fire Service (S117 Direction 4.4 - Planning for Bushfire Protection)
- Transport for NSW - Roads and Maritime Services

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. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions.

3. 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).

4. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons :

The planning proposal is supported as it implements the LHRS by providing opportunities for additional housing and business within an established town centre. Identified issues including mine subsidence, acid sulfate soils, and bushfire are considered minor or can be resolved through the consultation process.

Council is required to update the planning proposal to explain how intensification of development in an area subject flooding and sea level rise can be mitigated.

Council should also update the planning proposal to state if it has any interest in the land.

Council requests use of its plan making delegations.

Signature:



Printed Name:

KOFLAHERTY

Date:

29-8-2014