

Planning Services

Plan Finalisation Report

Local Government Area: Lake Macquarie

File Number: IRF18/6742

1. NAME OF DRAFT LEP

Lake Macquarie Local Environmental Plan 2014 Amendment No 31.

2. SITE DESCRIPTION

The planning proposal applies to land north and south of George Booth Drive, Edgeworth, shown in Figure 1. The site is approximately 95 ha for land south of George Booth Drive and 3.8 ha for the northern site.



Figure 1 – Site map

Studies prepared for the southern site have identified significant vegetation, including the presence of Lower Hunter Spotted Gum Ironbark Forest Endangered Ecological Community (EEC) and other threatened species.

The site adjoins Cameron Park centre, an area of recent urban development including a commercial town centre and residential areas.

Other residential areas adjoin the site to the north west, north, east and south. Land to the south west includes some recreational uses including a skatepark and transitions to bushland, zoned both E2 Environmental Conservation and RU6 Transition.

The site is traversed diagonally, north east to south west by transmission wires.

3. PURPOSE OF PLAN

The draft LEP seeks to deliver a mix of low and medium density residential development, as well as conservation of environmentally sensitive areas. The planning proposal also seeks to rezone land north of George Booth Drive to support the commercial core area of the Cameron Park/Pambulong Forest Town Centre and rectify zone and lot boundary inconsistencies.

It is proposed to rezone 95 ha of land south of George Booth Drive from RU6 Transition, RU2 Rural Landscape and E3 Environmental Management to R2 Low Density Residential, R3 Medium Density Residential and E2 Environmental Conservation. The Urban Release Map will be amended to cover the land being rezoned on the south side of George Booth Drive. This urban release area has the potential to deliver up to 500 dwellings.

It is proposed to rezone 3.8ha of land north of George Booth Drive from R3 Medium Density Residential to B4 Mixed Use zone. This proposal also seeks to rectify zone and lot boundary inconsistencies adjacent to the northern site. This will be achieved by rezoning 0.2 ha of R3 Medium Density Residential to B2 Local Centre and a small area (<0.01 ha) of R2 Low Density Residential to the B4 Mixed Use zone. Refer to Figures 2 and 3 which show the existing zoning and land being rezoned B4 Mixed Use including minor zoning changes with the adjoining lands.

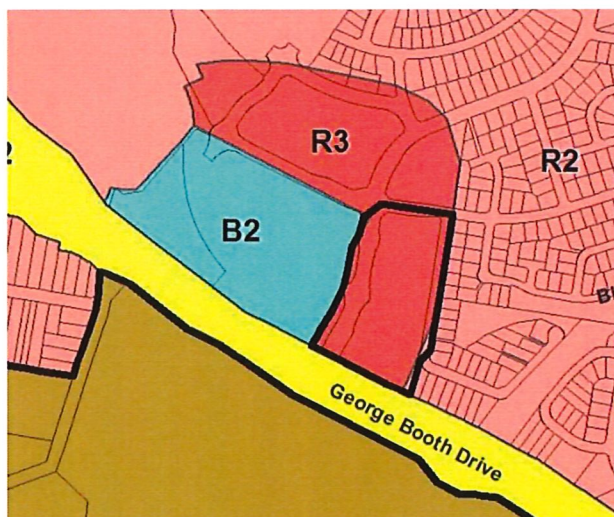


Figure 2: Existing zoning

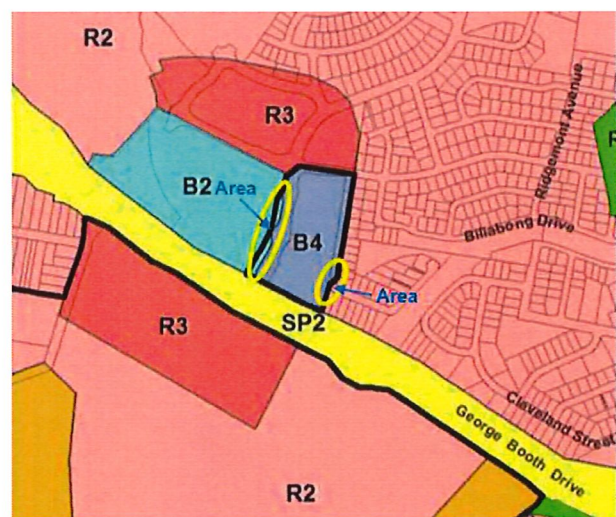


Figure 3: Proposed zoning

A summary of the existing and proposed controls is provided in Table 1.

Existing Zone	Existing Development Standards	Proposed Zone	Proposed Development Standards
Southern Site			
RU6 Transition (primarily) RU2 Rural Landscapes and E3 Environmental Management (small areas)	Height – 9m Lot Size – 200ha	R3 Medium Density Residential	Height – 10m Lot Size – 900sqm
		R2 Low Density Residential	Height – 8.5m Lot Size – 450sqm
		E2 Environmental Conservation	Height – 5.5m Lot Size – 40ha
Northern Site			
R3 Medium Density Residential	Height – 10m Lot Size – 900sqm	B4 Mixed Use	Height – 13m Lot Size - none

Table 1 – Summary of controls.

The proposal also allows for the delivery of various environmental conservation outcomes, including a package delivered through a Voluntary Planning Agreement that consists of:

- the establishment of a 116 ha biobank site at 1 First Street, West Wallsend (known as the O'Donnelltown site) to be managed in accordance with the provisions of the *Biodiversity Conservation Act 2016*,
- management, funding and future dedication of approximately 53 ha of land at Part 29 Government Road, Holmesville, 70 George Booth Drive, Edgeworth, Part 44 Portland Drive, Cameron Park and 6 Cameron Park Drive, Cameron Park, and
- a requirement for the Developer to source an additional 484 ecosystem credits for the EEC that is impacted to offset the biodiversity loss.

4. STATE ELECTORATE AND LOCAL MEMBER

The site falls within the Cessnock State Electorate. Clayton Barr MP is the State Member for Cessnock.

The site falls within the Hunter Federal Electorate. Joel Fitzgibbon MP is the Federal Member for Hunter.

To the regional team's knowledge, neither MP has made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: There are no donations or gifts to disclose and a political donation disclosure is not required.

5. GATEWAY DETERMINATION AND ALTERATIONS

The Gateway determination issued on 30 January 2012 (**Attachment C**) determined that the proposal should proceed subject to conditions. The Gateway determination has been altered for timeframe extensions due to the time taken to secure an appropriate offset agreement with the Office of Environment and Heritage (OEH). The latest alteration, issued on 17 December 2018 required the LEP to be finalised by 6 February 2019.

6. PUBLIC EXHIBITION

In accordance with the Gateway determination, the proposal was publicly exhibited for 28 days by Council from 16 September to 14 October 2013. During the exhibition, Council received requests from a community group to extend the exhibition timeframe which was granted by a further 3 weeks, until 4 November 2013. Eight submissions were received from the public and three from government agencies through the exhibition period.

Several concerns were raised by the public regarding the impact to biodiversity, especially the threatened species and communities identified in the Local Environmental Study (LES) including impacts to *Tetratheca juncea*, Lower Hunter Spotted Gum Ironbark Forest (LHSGIF) EEC, *Eucalyptus fergusonii* and *Callistemon linearifolius*.

Council notes impacts to threatened entities are to be avoided where possible, in some cases, impact will be unavoidable. However, it is noted that for loss of Lower Hunter Spotted Gum Ironbark Forest an offset is proposed offsite, detailed below.

The impact to the environment is also proposed to be offset through:

- establishment of 34.5ha area of land zoned E2 Environmental Conservation on Lot 2 DP1180029,
- a 116ha site at First Street, Wallsend to offset impact to Endangered Ecological Communities (EEC) and native vegetation through a biodiversity stewardship agreement,
- management, funding and future dedication of approximately 53 ha of land at Part 29 Government Road, Holmesville, 70 George Booth Drive, Edgeworth, Part 44 Portland Drive, Cameron Park and 6 Cameron Park Drive, Cameron Park, and
- a guarantee to source and retire approximately 484 Lower Hunter Spotted Gum Ironbark Forest EEC Forest ecosystem credits at the development application stage.

Concerns were also raised about the unsecured offset package. The VPA has since been secured by Council and was adopted with the final planning proposal in July 2018.

The subject site contains Aboriginal scar trees and concern was highlighted that the Aboriginal heritage assessment was not adequately undertaken. Council advised of the method, including representatives from the Awabakal Local Aboriginal Land Council (LALC), undertaken to date and that further heritage assessment would occur at the development application stage.

Other minor concerns including watercourse impact, site access and effect on land value were raised during the community consultation phase.

Council's responses have been reviewed and it is considered that Council has adequately dealt with all community concerns raised.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult with the following agencies in accordance with the Gateway determination:

- NSW Department of Primary Industries (Minerals and Petroleum),
- Mine Subsidence Board,
- NSW Rural Fire Service,
- Awabakal Local Aboriginal Land Council,
- Office of Environment and Heritage (OEH), and
- Roads and Maritime Services (RMS).

Council has consulted all the authorities as required by the Gateway determination, in most cases on multiple occasions. Council also undertook additional voluntary consultation with no objections from the following agencies:

- Hunter New England Area Health Service,
- Transport for New South Wales,
- State Transit Authority – verbal correspondence only,
- NSW Heritage Office,
- Hunter Water Corporation,
- AusGrid, and
- Awabakal Traditional Owners Aboriginal Corporation.

OEH has provided multiple responses in relation to the planning proposal, both prior to and during the exhibition period. The initial response from OEH notes the proposal's likely impact to the EECs, threatened species, riparian habitat and Masked Owl habitat. The proposed offset package was then reviewed by OEH who in later correspondence provided in-principle support for the use of a VPA to ensure the delivery of an 'improve or maintain' outcome. OEH advised further studies and assessment of impact would be required at development assessment stage.

RMS has provided support for the satisfactory arrangement provisions within the draft LEP to deliver State road infrastructure. Support was also noted for connection from the site to George Booth Drive.

Comment was sought from DPI Minerals and Petroleum to identify any mining, petroleum, and extractive industries within or in proximity to the subject site. Initially DPI objected to rezoning in this area pending the review of coal resources which was being undertaken by the lease holder. This objection was removed in 2015 as no mining is expected in this area in the short to medium term.

At the final consultation for each agency, they stated either they had no objection to the planning proposal or that their concerns would be more appropriately addressed at the development application stage.

A copy of the most recent correspondence from OEH, RMS and DPI Minerals and Petroleum is provided as **Attachment G**.

8. POST-EXHIBITION CHANGES

Council has revised the proposal after exhibition to include additional land (approx. 3,000sqm) in response to a submission from a community member. The original proposal boundary for the land on the southern side of George Booth Drive followed the RU6 Transition zone boundary however it has been extended 25 metres west to include a small portion of RU2 Rural Landscape and E3 Environmental Management zoned land.

The Department supports Council's decision to include this additional land, which includes two existing dwellings that will be within the R2 zone. Refer to Figures 5 and 6. No re-exhibition of the proposal is warranted as no additional landowners are affected by this change, the additional land is already used for residential purposes and no additional environmentally significant land is affected.

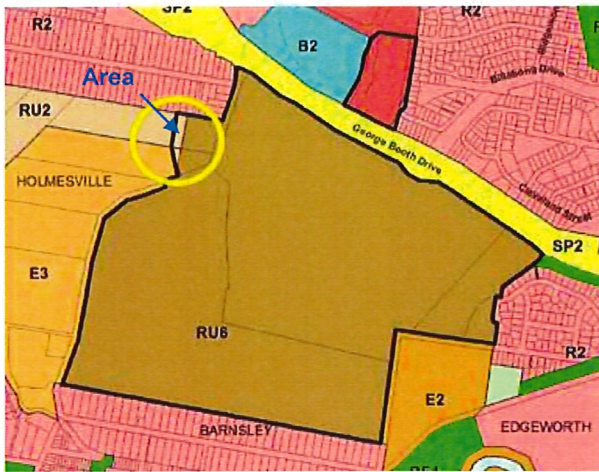


Figure 5: Existing zones showing revised proposal boundary (black outline)

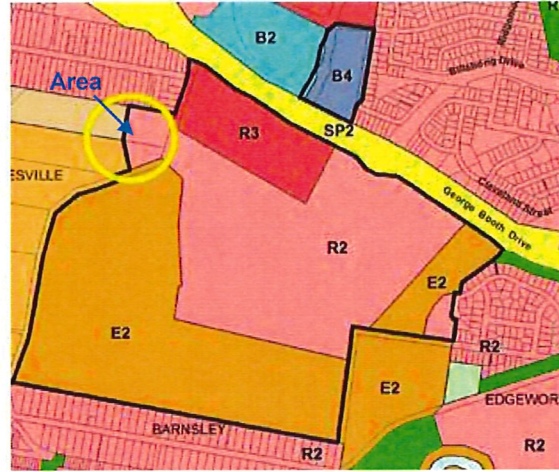


Figure 6: Proposed zones showing revised proposal boundary (black outline)

9. ASSESSMENT

The draft LEP is recommended to be made as it provides a mix of dwelling types to support the new Cameron Park Town Centre within an area identified for growth under the Hunter Regional Plan 2036. The proposal provides a balanced outcome between development opportunities and environmental conservation outcomes through an offset package to be delivered in part through a VPA.

An economic impact assessment was prepared as part of the Planning Proposal to address a Gateway condition to examine the role and size of the expansion of the future Pambulong centre and its relationship to the Edgeworth and Glendale catchments. This economic assessment identified that the proposed B4 Mixed Use was suitable for the northern side of George Booth Drive. The B4 Mixed Use zone should promote and support the role of Pambulong as a local centre by complementing the adjoining retail centre and providing a range of ancillary uses.

Section 9.1 Directions

As part of the original Gateway determination, the Director-General's delegate agreed that the planning proposal's inconsistencies with Directions 2.3 Heritage Conservation and 4.1 Acid Sulfate Soils are of minor significance. Three Section 9.1 Directions were unresolved at the Gateway determination stage:

- Direction 1.3 Mining, Petroleum Production and Extractive Industries,
- Direction 2.1 Environmental Protection Zones, and
- Direction 4.4 Planning for Bushfire Protection.

Direction 1.3 Mining, Petroleum Production and Extractive Industries

The site is within the West Wallsend Colliery Holding and therefore consultation with the Department of Primary Industries (DPI) was required under Direction 1.3. Council has undertaken this consultation on multiple occasions with the then Director General of DPI. While initially objecting to the planning proposal due to ongoing review of resources in the area, on 10 September 2015, the Director General released any objections to the planning proposal and any inconsistencies Direction 1.3 is now considered justified.

Direction 2.1 Environmental Protection Zones

The planning proposal applies to land that is environmentally sensitive and seeks to rezone a significant portion of the site to E2 Environmental Conservation, therefore Direction 2.1 applies. Consultation with OEH has been carried out in relation to this Direction and OEH advised they have no objections to the planning proposal on 9 September 2016. As the

planning proposal will create an 'E' zone, provides environmental protection through the offset package and OEHL has no objection to the planning proposal, it is considered that the requirements of Direction 2.1 has been satisfied.

Direction 4.4 Planning for Bushfire Protection

This direction seeks to ensure that life and property is protected from bush fire hazard and allowing for management of bush fire prone areas. The direction required Council to consult with NSW Rural Fire Service which has been undertaken on multiple occasions through the proposal's history. NSW Rural Fire Service advised on 30 September 2013 they had no objection to the planning proposal given appropriate assessment occurs at the development application stage.

The proposal is supported by a preliminary Bushfire Hazard Assessment prepared in 2010 by Geolink. The Assessment states the proposed rezoning conforms to the standards, specific objectives and performance criteria set out in Planning for Bushfire Protection 2006. Further assessment will occur at the development application stage once detailed plans have been prepared.

Notwithstanding the above, as the direction also requires the planning proposal to comply with detailed bushfire protection measures which Council intends to resolve at the development application stage, the proposal is inconsistent with the direction. Given RFS has not raised concerns with the proposal, it is recommended that the Secretary's delegate agree to the inconsistency.

State environmental planning policies

The planning proposal has addressed and is consistent with all relevant SEPPs.

State, regional and district plans

Hunter Regional Plan 2036 (HRP)

The planning proposal is consistent with the HRP's goals and strategic directions by delivering a mix of low and medium density residential development, as well as conservation of environmentally sensitive areas.

The subject site is located within an endorsed urban release investigation area adjoining Edgeworth and Cameron Park and in close proximity to the emerging Glendale strategic centre.

Greater Newcastle Metropolitan Plan 2036 (GNMP)

The planning proposal assists in the implementation of Strategy 16 in the GNMP - Prioritise the delivery of infill housing opportunities within existing urban areas. The planning proposal has the potential to deliver up to 500 dwellings in a recognised housing release area with established services and infrastructure.

Other Strategies

The planning proposal also supports the objectives and actions of the Lower Hunter Regional Strategy, Newcastle-Lake Macquarie Western Corridors Planning Strategy and the Lake Macquarie City Council Lifestyle Strategy 2020 which identify the land as a proposed urban area.

10. MAPPING

All amended maps and the map cover sheet have been approved by Department's e-Planning data and information teams and sent to the Parliamentary Counsel Office. The planning proposal will result in the following maps being amended:

- Height of Buildings Map – Sheet HOB_008B.

- Lot Size Map – Sheet LSZ_008B.
- Land Zoning Map – Sheet LZN_008B.
- Urban Release Area Map – Sheet URA_008B.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment E**). Council confirmed on 21 November 2018 that it was happy with the draft and that the plan should be made (**Attachment F**).

12. PARLIAMENTARY COUNSEL OPINION

On 14 November 2018 Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

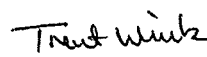
13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act as the proposal will provide a mix of dwelling types to support the new Cameron Park town centre within an area identified for growth under the Hunter Regional Plan 2036. The proposal provides a balanced outcome between development opportunities and environmental conservation outcomes through an offset package to be delivered in part through a VPA.



18/1/2019

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 18/12/18
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