

**Additional Permitted Use 411 Pacific Highway Belmont North and 28 Bluebell Street, 24
Bluebell Street and 10 Bluebell Street Belmont**

Proposal Title :	Additional Permitted Use 411 Pacific Highway Belmont North and 28 Bluebell Street, 24 Bluebell Street and 10 Bluebell Street Belmont		
Proposal Summary :	To facilitate additional permitted uses that reflect the historic and existing land use of the subject sites. Vehicle body repair workshops are to be permitted with consent on Lot 81 DP 536711, 411 Pacific Highway Belmont North and Lot 1 DP 739866, 28 Bluebell Street, Belmont (Site 1). Timber yards are to be permitted with consent on Lot 1 DP 449422, 24 Bluebell Street and Lot 127 DP 861468, 10 Bluebell Street, Belmont (Site 2).		
PP Number :	PP_2016_LAKEM_003_00	Dop File No :	16/11781

Proposal Details

Date Planning Proposal Received :	14-Oct-2016	LGA covered :	Lake Macquarie
Region :	Hunter	RPA :	Lake Macquarie City Council
State Electorate :	SWANSEA	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	411 Pacific Highway		
Suburb :	Belmont North	City :	LM
Land Parcel :	Lot 81 DP 536711		Postcode : 2280
Street :	10 Bluebell Street		
Suburb :	Belmont	City :	LM
Land Parcel :	Lot 127 DP 861468		Postcode : 2280
Street :	24 Bluebell Street		
Suburb :	Belmont	City :	LM
Land Parcel :	Lot 1 DP 449422		Postcode : 2280
Street :	28 Bluebell Street		
Suburb :	Belmont	City :	LM
Land Parcel :	Lot 1 DP 739866		Postcode : 2280

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DoP Planning Officer Contact Details

Contact Name : **Amy Blakely**
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RPA Contact Details

Contact Name : **Adam Kennedy**
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DoP Project Manager Contact Details

Contact Name :
Contact Number :
Contact Email :

Land Release Data

Growth Centre :	Release Area Name :
Regional / Sub Regional Strategy :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings (where relevant) : 0
Gross Floor Area : 0	No of Jobs Created : 0

The NSW Government **Yes**
Lobbyists Code of
Conduct has been
complied with :
If No, comment :

Have there been **No**
meetings or
communications with
registered lobbyists? :
If Yes, comment :

Supporting notes

Internal Supporting Notes : **The Department requested additional information justifying the proposal which was provided by Council on 14 October 2016**
External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

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

Comment :

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

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

Comment :

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

3.3 Home Occupations

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

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP No 33—Hazardous and Offensive Development

SEPP No 55—Remediation of Land

SEPP (Infrastructure) 2007

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

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

If No, explain :

4.1 Acid Sulfate Soils

The subject sites have been identified as ASS Class 5. An ASS study is not required at this time due to the nature of the PP and the existing development of the subject sites. Any future redevelopment will require ASS to be assessed.

4.2 Mine Subsidence and Unstable Land

The subject sites are located within a Mine Subsidence District. Consultation with the Mine Subsidence Board will be required.

4.3 Flood Prone Land

10, 24 and 28 Bluebell Street are subject to high hazard flooding. The PP acknowledges that supporting additional permitted uses on the site may increase future development potential. The PP advises any future development will need to meet Council's development controls in DCP 2014, which will improve the use of the land in terms of response to flooding.

4.4 Planning for Bushfire Protection

10, 24 and 28 Bluebell Street are located within the buffer of a bushfire prone area. The NSW Rural Fire Service will be consulted.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Council propose at least a 28 day exhibition period.**

The matter is considered minor, with only a 14 day period required.

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 :

Comments in relation to Principal LEP : **Principal LEP made 2014.**

Assessment Criteria

Need for planning proposal : **The PP aims to add the existing uses of the sites as 'additional permitted uses' within the LEP (Schedule 1).**

Both sites were zoned 4 (2) General Industrial under the Lake Macquarie LEP 2004. This area has historic competing land uses, with industrial, business and residential uses not following a concise zoning pattern. The industrial uses support the local economy but some uses have potential to cause land use conflict with residential development.

During the preparation of the 2014 LEP, Council determined that the area was more generally suited to a B7 Business Park, due to its proximity to residential development and the complaints some of the industrial land uses had received. Both vehicle body repair workshops and timber yards are prohibited in the B7 zone (discussed below).

Since this time the land owners of these two sites have been investigating options to provide certainty for the longer term. There are several options:

Option 1 - Existing Use Rights (do nothing/current situation)

The Environmental Planning and Assessment Act 1979 and corresponding Regulations 2000, provide for the permissibility of 'existing uses'. Existing uses are those that were legally approved under previous planning instruments yet are prohibited under the current LEP.

Council advises affected business owners argue relying on existing use rights provisions

would create a degree of uncertainty and restriction on expansion.

Option 2 - Rezoning

Council has considered rezoning the sites to a zone which permits the existing land use; IN1 General Industrial or IN2 Light Industrial. These zones are considered comparable to the previous 2004 zoning of the site (4 (2) General Industrial).

Rezoning the subject sites would then make a larger range of industrial uses permissible on the site, which could result in more significant impacts on the neighbouring residential land than the current uses. Council does not want to encourage or permit heavier industrial uses in this locality.

Council has selected the B7 zone to specifically encourage the transition of land uses over time from industrial to land uses more compatible with the neighbouring residential development.

Option 3 - Add uses as permitted with consent to B7 Business Park Zone

Council has considered allowing the existing use throughout all of the B7 zone, but determined the land use is inconsistent with the objectives of the B7 Zone. During the preparation of the comprehensive LEP, the use 'Vehicle Body Repair Shops' was considered for inclusion as permitted with consent in the B7 zone. It was agreed though, that while light industrial uses are permitted and appropriate for the B7, 'Vehicle Body Repair Shops' do not fit under the definition of light industry due to their potential impact on the surrounding neighbourhood (noise etc.).

There is also concern that other areas of B7 land within the LGA are also in close proximity to residential land and have the potential to create additional land use conflicts. Council is aware of the operations history of these sites, both without complaints, and consider any intensification or changes to the operation will be assessed strictly within the parameters of the new zone objectives.

The PP aims to legitimise the existing land uses currently and legally operating on the site. While existing use right provisions would allow the owners to expand, intensify, alter and extend, issues with land owner concerns regarding certainty have led to Council preparing this PP.

Option 4 - Add uses to Schedule 1 Additional Permitted Uses (the planning proposal)

This planning proposal formalises the existing use rights by identifying the use as an additional permitted use within the current LEP. Circular PS 06 007 released by the Department in March 2006, encourages councils to identify existing uses and include them as 'permitted additional uses' (Schedule 1), so that the land use is no longer prohibited and, in effect, existing use rights are removed.

Council has considered the alternative options and concluded that use of Schedule 1 is the preferred option in this case. Given Council's assessment and that this will meet the landowner's objectives, use of Schedule 1 is supported in this instance.

Consistency with
strategic planning
framework :

Arguably this PP is inconsistent with the strategic framework as the current prohibited uses have been excluded on the basis the site will gradually become less industrial and more of a mixed business/ bulky good precinct. However, Council is satisfied that these specific land operations are not in conflict with the long term vision for the locality.

Further Council has informed the Department that the conversion LEP, which rezoned the land from Industrial to a Business Park zone did not take into account the subject uses. The B7 zone was chosen to best reflect the desired land uses for of the locality, but also the best fit of the existing range of land uses. The land owners were not directly consulted on the change.

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Environmental social
economic impacts :

While Council has determined that this locality is better suited to a B7 Business Park Zone, these land uses represent long standing businesses that will continue to operate. Council advise these specific operations have demonstrated a history of minimum social and environmental impacts.

The majority of impacts associated with the land uses have been established, as the business have been operating with consent under previous LEPs, one for over 40 years. Council advise that any future impacts associated with any expansion will be considered during development assessment.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	6 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	NSW Rural Fire Service		

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
2016 09 12 Planning Proposal - LEP Amendment for 411 Pacific Highway and 10 24 and 28 Bluebell Street Belmont and Belmont North.docx	Proposal	Yes
Report - 16SP063 - Planning Proposal LEP Administrative Amendment for Belmont North Business Park Precinct - Ordinary Council ~ 22 August 2016(2).docx	Determination Document	Yes

Planning Team Recommendation

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

S.117 directions: **1.1 Business and Industrial Zones**
 3.3 Home Occupations
 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
 6.3 Site Specific Provisions

Additional Information : **It is recommended that the Gateway be conditioned as follows:**

1. 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 a minimum 14 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 publicly available along with planning proposals as identified in section 5.5.2 of A guide to preparing LEPs (Department of Planning & Environment 2016)**

2. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:

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

The public authorities are to be provided with a copy of the Planning Proposal and any relevant supporting material. The public authorities are to be given at least 21 days to comment on the proposal. Council should, following receipt of advice from the public authorities, update its consideration of S117 Directions in the planning proposal, as required.

3. The Secretary's delegate agree to the following section 117 Direction inconsistency – 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land, as the inconsistency with the S117 Direction is of minor significance.

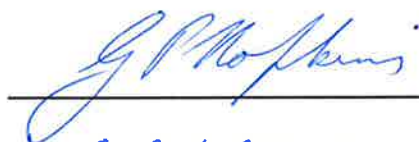
4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to submission if reclassifying land).

5. Council exercise its plan-making delegations under section 59(1) of the EP&A Act.

6. The time-frame for completing the LEP is to be 6 months following the Gateway Determination.

Supporting Reasons : **As discussed**

Signature:



Printed Name:

G P HOPKINS

Date:

3/11/2016

