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Mr Brian Bell  
General Manager  
Lake Macquarie City Council  
Box 1906  
HUNTER REG MAIL CTR NSW 2310

Our ref: PP\_2013\_LAKEM\_002\_00 (12/17629)  
Your ref:

Dear Mr Bell,

**Planning proposal to amend Lake Macquarie Local Environmental Plan (LEP) 2004 or draft Lake Macquarie LEP 2012**

I am writing in response to your Council's request for a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to permit commercial premises and restaurants as additional permitted uses on land at 27 Tiral Street, Charlestown and include a condition which limits the size of the commercial development and requires the development to support seniors housing.

As delegate of the Minister for Planning and Infrastructure, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

While I support the intended outcome of the planning proposal, Council's proposed provision to include commercial premises and restaurants as additional permitted uses on land at 27 Tiral Street, Charlestown is not supported as a means of achieving the intended outcome. Council is to zone the location of the subject site where commercial premises and restaurants are to be permitted to an appropriate business zone, such as B1 Neighbourhood Centre. Council may want to consider locating the business zone along the Dudley Road frontage, to form an extension to the adjoining business zone located on land to the north of the site. If this option is supported, Council is to amend the planning proposal prior to proceeding to public exhibition.

Furthermore, Council is advised that the terms 'complement and support' proposed to be included as a condition within Schedule 1 are difficult to define and the proposed gross floor area allocated for commercial premises would permit a significant quantity of commercial development on the site, which is considered to be inconsistent with the intended residential use of the site.

I have also agreed the planning proposal's inconsistency with S117 Direction 3.1 Residential Zones is of minor significance. No further approval is required in relation to this Direction.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan.

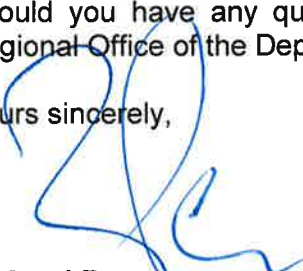
The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the

projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Dylan Meade of the Regional Office of the Department on 02 4904 2700.

Yours sincerely,



**Richard Pearson**  
**Deputy Director General**  
**Planning Operations & Regional Delivery**

12/3/13

## Gateway Determination

***Planning proposal (Department Ref: PP\_2013\_LAKEM\_002\_00): to permit commercial development on land at Charlestown.***

I, the Deputy Director General of Planning Operations and Regional Delivery, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Lake Macquarie Local Environmental Plan (LEP) 2004 or draft Lake Macquarie LEP 2012 to permit commercial premises and restaurants as additional permitted uses on land at 27 Tiral Street, Charlestown and include a condition which limits the size of the commercial development and requires the development to support seniors housing should proceed subject to the following conditions:

1. Council's proposed provision to include commercial premises and restaurant as additional permitted uses on land at 27 Tiral Street, Charlestown is not supported and should be removed from the planning proposal. Council is to zone the area of the site it seeks to permit commercial premises and restaurants to an appropriate business zone, which permits these uses. Council is to amend the planning proposal and include proposed zoning maps, at an appropriate scale and which clearly identify the subject site to reflect the above approach prior to undertaking public exhibition. Council may consider amending the planning proposal to include additional controls to limit the scale of the potential development, such as floor space ratio and building height controls.
2. Prior to undertaking public exhibition, Council is to consider preparing a preliminary concept plan which identifies the location of the proposed uses and facilities on the site and exhibit this additional information with the planning proposal. This will assist in determining the proposal's consistency with S117 Direction 1.1 Business and Industrial Zones and Direction 5.1 Implementation of Regional Strategies.
3. Prior to undertaking public exhibition, Council is to amend the planning proposal to include a project timeline, consistent with Section 2.6 Part 6 of the *A Guide to Preparing Planning Proposals*. The project timeline is to provide a mechanism to monitor the progress of the planning proposal.
4. Council is to ensure that the planning proposal satisfies the requirements of State Environmental Planning Policy (SEPP) 55 – Remediation of Land. If required, Council is to prepare an updated site contamination investigation report to demonstrate that the site is suitable for rezoning to the proposed zone. This report is to be included as part of the public exhibition material.
5. 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 must be made publicly available for **28 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 (Department of Planning & Infrastructure 2012)*.

6. 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)
- NSW Aboriginal Land Council - Awabakal Local Aboriginal Lands Council
- Hunter Water Corporation
- 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.

7. 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).

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

Dated

12

day of

March

2018.



**Richard Pearson**  
Deputy Director General  
Planning Operations & Regional Delivery  
Delegate of the Minister for Planning and  
Infrastructure



## WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Lake Macquarie City Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

| Number               | Name                                                                                                                                                                                                                                                                      |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PP_2013_LAKEM_002_00 | Planning Proposal to permit commercial premises and restaurants as additional permitted uses on land at 27 Tiral Street, Charlestown and include a condition which limits the size of the commercial development and requires the development to support seniors housing. |

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 12 March 2013

  
**Richard Pearson**  
Deputy Director General  
Planning Operations & Regional Delivery  
Department of Planning and Infrastructure

## Attachment 5 – Delegated plan making reporting template

### Reporting template for delegated LEP amendments

#### Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

**Table 1 – To be completed by the department**

| Stage                               | Date/Details         |
|-------------------------------------|----------------------|
| Planning Proposal Number            | PP_2013_LAKEM_002_00 |
| Date Sent to Department under s56   | January 2013         |
| Date considered at LEP Review Panel | 14/02/2013           |
| Gateway determination date          | 12/03/2013           |

**Table 2 – To be completed by the RPA**

| Stage                                           | Date/Details | Notified Reg Off |
|-------------------------------------------------|--------------|------------------|
| Dates draft LEP exhibited                       |              |                  |
| Date of public hearing (if held)                |              |                  |
| Date sent to PCO seeking Opinion                |              |                  |
| Date Opinion received                           |              |                  |
| Date Council Resolved to Adopt LEP              |              |                  |
| Date LEP made by GM (or other) under delegation |              |                  |
| Date sent to DP&I requesting notification       |              |                  |

**Table 3 – To be completed by the department**

| Stage                         | Date/Details |
|-------------------------------|--------------|
| Notification Date and details |              |

#### Additional relevant information: