

2. Removal Acquisition of Valentine-Belmont Corridor and Rezoning of 14 Halyard Way, Valentine (PP_2013_LAKEM_015)

PROPOSAL

The Planning Proposal aims to remove the acquisition layer from 14 Halyard Way, 10 Hill Street and 35 Macquarie Drive along the proposed Valentine-Belmont road corridor because the land is no longer required for the purposes of a road.

Plans for the Valentine-Belmont road have been abandoned and removing the acquisition layer will avoid the need for Council to purchase the land. RMS advised in 1996 that it no longer required the land for a main road but Council accepted acquisition responsibility as it saw the need for a local road. Council has subsequently changed their opinion.

The Planning Proposal also proposes to rezone 29.6 hectares of land at 14 Halyard Way from 5 Infrastructure Zone and 6(1) Open Space Zone to E2 Environmental Conservation.

The rezoning component of the Planning Proposal is a result of concerns regarding the appropriate translation of Clause 41 of Lake Macquarie LEP 2004 Development for the purpose of retirement villages into the new standard instrument LEP. This clause provides for seniors housing development to be considered on land within the LGA, where it is within proximity to existing centres but may be otherwise prohibited. The translation of this clause into Council's Standard Instrument Lake Macquarie LEP 2014 was intended to address the clause in full, however submissions to the exhibition of the LEP raised concern that the current clause was not being translated accurately.

Land at 14 Halyard Way is an example whereby the land would not be considered eligible under the exhibited clause, if the land is translated with a recreation or special purposes zone. Under the exhibited clause the land would need to be zoned to an environmental zoning (7(2) under Council LEP 2004) prior to the new LEP being gazetted if it was to be considered for seniors housing. In the circumstances it was considered appropriate to proceed with this PP as a mechanism to address concerns that the land would not otherwise be adequately translated in the absence of a settled clause. Since that time the draft LEP has been amended to address this problem and therefore rezoning of this land prior to the new LEP being finalised is not necessary. Incorporating this proposal into the draft LEP at this time will appropriately translate the existing entitlements.

GATEWAY DETERMINATION

The Minister's delegate determined on 17 January 2014 that an amendment to the Lake Macquarie LEP 2004 or the draft Lake Macquarie LEP 2013 should proceed.

TIMEFRAME

The Gateway Determination required completion of the planning proposals by 24 July 2014 (6 months).

AGENCY CONSULTATION

Consultation was undertaken with relevant agencies in relation to the relevant s117 directions. The Mine Subsidence Board raised no objection to the proposal.

NSW Rural Fire Service raised no objection to the proposal. However in their correspondence dated 12 February 2014, RFS raises concerns regarding the bushfire hazard on this land and the extent of measures that would be required to make the site safe for potential seniors housing.

Seniors housing was previously permissible on this site under clause 41 of the Lake Macquarie LEP 2004 and this was not additional development opportunity provided by the rezoning. RFS comments are therefore able to be adequately considered through the development assessment process if, or when, any such use is proposed.

PUBLIC PARTICIPATION

In accordance with the Gateway Determination issued 17 January 2014, the planning proposal was exhibited for at least 7 days from 22 February to 10 March 2014.

Three public submissions were received in response to the exhibition of the proposal. Two submissions supported the removal of the acquisition layer but objected to any future seniors living development on the site. The third submission was made by a party interested in developing the land and sought additional development opportunities potentially to a development zone.

Additional representations were made by the interested party direct to the Department outlining their concerns regarding the appropriate translation of the clause and their objection to the environmental zoning of the site. Council have adequately demonstrated that the environmental zoning is an appropriate translation of existing development potential and recognises the sites environmental constraints. It is not appropriate for the land to retain its open space and infrastructure purposes when it is not identified for acquisition for these purposes. Nor is it appropriate to zone the land to a more intensive zone. Council's position is supported.

PUBLIC HEARING

The Gateway Determination did not require a public hearing to be held into the matter by any person or body under section 56(2) of the *Environmental Planning and Assessment Act 1979*.

CHANGES MADE TO THE PLANNING PROPOSAL AFTER EXHIBITION

No changes were made to the proposal after exhibition and the proposal is to be finalised as part of the new draft LEP as permitted under the Gateway determination.

CONSISTENCY WITH STATE POLICIES AND S117 DIRECTIONS

This planning proposal is considered consistent with applicable State Environmental Planning Policies (SEPP's).

The Gateway Determination issued 17 January 2014 advised that the reduction of land for public purposes was approved by the then Director-General's delegate and the proposal was therefore consistent with s117 direction 6.2 Reserving land for public purposes. Consistency with s117 direction 4.2 Mine Subsidence and Unstable land and 4.4 Planning for Bushfire Protection was confirmed by the delegate in correspondence dated 22 May 2014.

COUNCIL DELEGATIONS

Council has delegations and resolved to finalise the Plan on 12 May 2014, Council requested drafting of the LEP amendment on 27 May 2014. To improve timing and given the amendments to the translation of clause 41, it was appropriate to finalise the drafting and notification via the draft LEP 2014.