

Removal of Belmont to Valentine Road Corridor

Proposal Title : **Removal of Belmont to Valentine Road Corridor**

Proposal Summary : **Remove acquisition layer from 14 Halyard Way, 10 Hill Street and 35 Macquarie Drive along Valentine-Belmont road corridor reservation.
Rezone 14 Halyard Way from 5 Infrastructure Zone and 6(1) Open Space Zone to 7(2) Conservation (Secondary) Zone, Lake Macquarie LEP, 2004.**

PP Number : **PP_2013_LAKEM_015_00**

Dop File No : **13/17914**

Proposal Details

Date Planning Proposal Received : **25-Nov-2013**

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 : **14 Halyard Way**

Suburb : **Valentine**

City : **Lake Macquarie**

Postcode : **2280**

Land Parcel : **Lot 803 DP 1156934**

Street : **10 Hill Street**

Suburb : **Belmont**

City : **Lake Macquarie**

Postcode : **2280**

Land Parcel : **Lot 1 Section P DP 10799**

Street : **35 Macquarie Drive**

Suburb : **Belmont**

City : **Lake Macquarie**

Postcode : **2280**

Land Parcel : **Lot 22 DP 879368**

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DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **Matthew Hill**
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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 :	
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

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 : **This 1950's main road corridor was abandoned by RMS but retained by Council for a future local road. Both RMS and Council now agree that the corridor is not required. As Council does not wish to acquire the land the acquisition layer can be removed. The infrastructure zoning is no longer appropriate and rezoning will maintain development rights that will enable the owner to pursue a seniors housing development. Because the land is mainly remnant bushland, except for a cleared powerline easement, an environmental zoning has been determined to be appropriate.**

Council seeks rezoning and acquisition layer removal for 14 Halyard Way. Council also seeks acquisition layer removal from the other two properties that comprise the road corridor. However they will keep their LMLEP 2004 (5-Infrastructure) zone and be

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addressed through LMLEP 2013.

Draft clause 7.13 Use of certain conservation land for Seniors Housing, of the draft Lake Macquarie LEP 2013 has implications for this proposal. The matter is currently being assessed by the Department and this is further discussed within the report.

External Supporting
Notes :

The PP includes the rezoning of land previously identified for a road corridor. Similar proposals have generated controversy within the LGA recently. Furthermore the translation of the provisions relating to seniors housing has been the subject of numerous pieces of correspondence including ministerial correspondence. The PP has therefore been submitted to the Panel for their consideration due to it being potentially contentious.

Adequacy Assessment

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

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

Comment :
1) Remove acquisition layer from LMLEP 2004 in respect of three properties on the Valentine-Belmont road reservation
2) Rezone the undeveloped lot known as 14 Halyard Way (approx. 29.6ha) from 5 Infrastructure and 6(1) Public Open Space to 7(2) Conservation (Secondary).

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

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

Comment :
Plans for this main road link have been abandoned and removing the acquisition layer from Lake Macquarie LEP 2004 will avoid the need for Council to purchase the land.

RMS advised in 1996 (copy attached) 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.

Council has provided an explanation of how the PP may proceed under both the current LEP and the draft LEP.

Council indicates that the rezoning of 14 Halyard Way from 5 Infrastructure and 6(1) Public Open Space to Conservation (Secondary) prior to gazettal of the new LEP, will maintain development potential under clause 41 of Lake Macquarie LEP 2004, while protecting the biodiversity values of this remnant bushland.

This matter is further discussed later within this report.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

2.1 Environment Protection Zones
4.2 Mine Subsidence and Unstable Land
4.4 Planning for Bushfire Protection
6.2 Reserving Land for Public Purposes

* May need the Director General's agreement

Is the Director General's agreement required? **No**

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

d) Which SEPPs have the RPA identified?

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

SEPP 19- Bushland in Urban Areas (LGA is Scheduled in the SEPP)
S.117 Direction 3.4- Integrating Land Use and Transport
This Direction applies because the proposal affects urban land in the terms of Clause 3 of the Direction.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

If No, explain :

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Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Maps show zones, proposed rezoning, acquisition layer and layer removal for both LEP 2004 and LEP 2013 as well as changes to minimum lot size and height of buildings maps for LEP 2013.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **No previous public consultation has occurred. Council proposes a public exhibition period of 28 days.
For such minor proposals Guidelines recommend 14 days which, with targeted local notifications, is considered adequate in this case.**

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 : **March 2014**

Comments in
relation to Principal
LEP :

The Lake Macquarie LEP 2013 is due for completion in early 2014.

Clause 41 of Lake Macquarie LEP 2004 Development for the purpose of retirement villages, 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 2013 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 proposed new clause, if the land is translated with a recreation or special purposes zone. The draft LEP and clause is currently with the Department and careful consideration of this matter is being given. Under the exhibited clause the land would need to be zoned 7(2) prior to the new LEP being gazetted if it was to be considered for seniors housing. In the circumstances it is 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.

Assessment Criteria

Need for planning
proposal :

**Removal of the acquisition layer avoids Council acquiring land in this obsolete road corridor reservation.
Rezoning will maintain development rights as well as protect biodiversity values in this substantially wooded area.**

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Consistency with strategic planning framework :

Lower Hunter Regional Strategy (LHRS)

The proposal is not specifically identified in the LHRS. However it is not inconsistent with its broader intent.

Council's Cycling Strategy 2021

Council's Cycling Strategy identifies the subject land, as well as other parcels, as an indicative future link. However the Strategy recognises the need to obtain funding to implement the links that it proposes across the LGA over a 10 year period. The PP is not considered inconsistent with this Strategy because nothing within the PP precludes any future plans for acquisition or the construction of a cycling link on or within proximity to the land. In particular the land will retain an environmental zoning and contains an existing electricity easement. Council has determined that, at this point in time, the land is not to be acquired. However Council are encouraged to include reference to the Cycling Strategy within the exhibition documentation to assist the community in understanding the broader strategic context of the site.

SEPP 19 Bushland in Urban Areas

The proposal is consistent with this SEPP. The proposed zoning is supported by the Green Point-Floraville Wildlife Study, 1992. Council should be encouraged to exhibit relevant extracts from this study to assist the community in understanding the justification for the environmental zoning of the site.

SEPP 55 Remediation of land

Under the existing zoning a relatively broad range of uses are currently permitted. These uses do not change substantially under the proposed environmental zoning, although residential dwellings will, amongst other things, become permitted. As such it is appropriate that Council consider the provisions of SEPP 55, in particular whether the land is contaminated and, if contaminated, that it has or could be remediated to be suitable for all purposes which will be permitted.

2.1 Environment Protection Zones

The proposal extends land zoned for environmental protection and so is consistent with this Direction.

3.4 Integrating Land Use and Transport

The proposal removes a transport provision from urban land that relates to motor transport, but which has potential for active transport as identified within Council's cycling strategy. However Council are not currently in a position to acquire land for cycling purposes and is of the opinion that it is no longer required for a future road. Nothing within the PP precludes any future plans for acquisition or the construction of a cycling link on or within proximity to the land. The PP is therefore considered consistent with this direction.

4.2 Mine Subsidence and Unstable Land

The land is within the Lake Macquarie Mines Subsidence District. Under the existing zoning a relatively broad range of uses are currently permitted. These uses do not change substantially under the proposed environmental zoning, although residential dwellings will, amongst other things, become permitted. Council have indicated that they will seek an update of previous advice from MSB and consistency or otherwise with this direction will be determined based on that advice.

4.4 Planning for Bushfire Protection

The subject land is bushfire prone and will be subject to the Planning for Bushfire Protection guidelines. Consultation with the Rural Fire Service is intended by Council. Consistency or otherwise with this direction will be determined based on that advice.

6.2 Reserving Land for Public Purposes

This Direction facilitates removal of reservations no longer required for acquisition. Council, as the relevant authority, has agreed to the removal of the reservation of this land.

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With the agreement of the Director General (or his delegate) the PP is consistent with this direction.

Environmental social
economic impacts :

The removal of the acquisition layer and rezoning of land is not expected to have any substantial environmental or social impacts.

Economic Impacts

The PP will save Council the cost of just terms acquisitions for a corridor now obsolete as a motor traffic route. The rezoning will assist to ensure that the potential for the site to be considered for seniors housing is continued under the new standard instrument LEP.

Assessment Process

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

Timeframe to make LEP : **6 months** Delegation : **RPA**

Public Authority Consultation - s56(2) (d) : **Mine Subsidence Board
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
Belmont_Removal of Road Corridor Acquisition_LMCC letter.pdf	Proposal Covering Letter	Yes
Green Point Floraville wildlife study - 1992.pdf	Study	Yes
PP 25Nov2013 - Abandonment of Valentine to Bel.pdf	Proposal	Yes
LMCC Cycling Strategy- Map Extract.docx	Study	Yes

Planning Team Recommendation

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

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S.117 directions: 2.1 Environment Protection Zones
4.2 Mine Subsidence and Unstable Land
4.4 Planning for Bushfire Protection
6.2 Reserving Land for Public Purposes

Additional Information : The Planning Proposal should proceed with conditions:

1. The planning proposal should be finalised as an LEP within 6 months. A 6 month time-frame is recommended because of the relative minor nature of the planning proposal.

2. A 14 day community consultation exhibition period is recommended because of the relative minor nature of the planning proposal.

3. Consultation with relevant State authorities and agencies is listed below:

* Mine Subsidence Board (to determine consistency with s117 Direction - 4.2 Mine Subsidence and Unstable Land)

* Rural Fire Service (to determine consistency with s117 Direction 4.4 Planning for Bushfire Protection)

Prior to undertaking public exhibition, Council is to amend the Planning Proposal, if necessary, to take into consideration any comments made.

4. Council should consider the provisions of SEPP 55 and confirm that the proposal is consistent with the SEPP. Council is to amend the Planning Proposal to reflect this consideration.

5. Council's request to exercise their plan making delegations under section 59(1) of the EP&A Act is supported.

The Director General (or delegate) agrees, in relation to s117 direction 6.2 Reserving Land for Public Purposes, to the reduction of the land for public purposes on the basis of the land no longer being required for a road.

Supporting Reasons : The proposal facilitates translation of the land into the Standard Instrument LEP in a manner which retains the ability to consider one of the sites for seniors housing.

The PP relieves Council of land acquisition responsibility and costs along a local road corridor no longer considered necessary.

Council are encouraged to exhibit extracts of the Green Point-Floraville Wildlife Study, 1992 and the Cycling Strategy 2012 and the written correspondence regarding the abandonment of the road corridor signed by the Minister for Roads, with the PP.

Signature:



Printed Name:

KOFLAHERTY

Date:

13/12/13

