

Lake Macquarie LEP 2014 – West Wallsend Heritage Conservation Area

Proposal Title : **Lake Macquarie LEP 2014 – West Wallsend Heritage Conservation Area**

Proposal Summary : **The planning proposal seeks to amend Lake Macquarie LEP 2014 to extend the West Wallsend Conservation Area (HCA) over adjoining land to recognise the heritage value of the land.**

PP Number : **PP_2015_LAKEM_002_00** Dop File No : **15/01652**

Proposal Details

Date Planning Proposal Received :	17-Feb-2015	LGA covered :	Lake Macquarie
Region :	Hunter	RPA :	Lake Macquarie City Council
State Electorate :	LAKE MACQUARIE	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :	11 Robertson Road		
Suburb :	West Wallsend	City :	Lake Macquarie
Land Parcel :	Lot 5 DP 1180029		
Street :	Withers Street & Royalty Street		
Suburb :	West Wallsend	City :	Lake Macquarie
Land Parcel :	Lots 101 – 123 in DP 1197851		
Street :	Tramway Drive, Appletree Road, Cutter Court & Drift Street		
Suburb :	West Wallsend	City :	Lake Macquarie
Land Parcel :	Lots 301 - 323, Lots 332 – 442 & Lots 354 – 375 in DP 1185817		
Street :	Withers Street, Tramway Drive & Steam Close		
Suburb :	West Wallsend	City :	Lake Macquarie
Land Parcel :	Lots 201 – 261 in DP 1197850		

DoP Planning Officer Contact Details

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RPA Contact Details

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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 :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	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 :

External Supporting Notes : **The land has been historically zoned R2 Low Density Residential.**

The JRPP determined DA/113/2001 for subdivision of 375 lots over the subject site. A condition required a positive covenant on each lot to ensure that any dwelling constructed within the estate complied with the Heritage and Urban Design Guidelines (HUDG) prepared for the estate and approved by the JRPP as a part of the development consent.

Council obtained Legal advice from the Department that a positive covenant would not

have the desired effect in prohibiting complying development and that the SEPP (Exempt and Complying Development Codes) 2008 (E&C Codes) would prevail. Therefore a dwelling could be approved without meeting the requirements of the HUDG.

Council sought an exclusion from the Code SEPP and the Department granted a temporary exclusion which ceases in November 2015. This allowed Council time to prepare a heritage study to assess the appropriateness of extending the HCA.

Council prepared a West Wallsend Heritage Study which recommended the entry points to the town be included in the HCA. Given the importance of the heritage value of the site, Council has prepared the Planning Proposal to extend the HCA over the whole developable area.

Adequacy Assessment

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

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

Comment : **The planning proposal seeks to amend Lake Macquarie LEP 2014 to extend the West Wallsend Conservation Area over adjoining land in accordance with the maps provided.**

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

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

Comment : The explanation of provisions is adequate as it provides the parameters to amend Lake Macquarie LEP 2014.

The PP will amend the following maps in relation to the subject site;

- Lake Macquarie LEP 2014 Heritage Map by expanding the Conservation Area to include the subject site on map sheet HER 008B.

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

Is the Director General's agreement required?

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

d) Which SEPPs have the RPA identified?	SEPP No 64—Advertising and Signage SEPP (Exempt and Complying Development Codes) 2008 SEPP (Housing for Seniors or People with a Disability) 2004 SEPP (Infrastructure) 2007
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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 : **S117 DIRECTIONS**

2.3 Heritage Conservation – the planning proposal is consistent with Direction 2.3 as it contains provisions that facilitate the conservation of heritage items and places.

3.1 Residential Zones – the planning proposal is inconsistent with Direction 3.1 as it restricts choice of housing types by requiring future development to comply with the HUDG. The inconsistency is considered justified in this instance as it fulfils the requirements of a condition of consent already issued over the site. The inconsistency is of minor significance and the agreement of the Secretary's delegate is required.

STATE POLICIES

Part 2 Exempt Development Codes – a number of minor development types in heritage conservation areas are permitted as exempt development with certain provisions. The Planning Proposal will require development consent for other minor developments. This is inconvenient to land owners but it is consistent with the requirements in the remainder of West Wallsend and protects the heritage values of the site.

Part 3 General Housing Code, Part 3A Rural Housing Code and Part 5A Commercial and Industrial (New Buildings and Additions) Code do not allow complying development in a HCA.

If a development is not permitted under the E&C Codes in a HCA then this does not necessarily prohibit the development but rather makes it permissible by development consent.

SEPP (INFRASTRUCTURE) 2007

The SEPP facilitates infrastructure development but is limited in heritage conservation areas for some minor developments.

Although the Planning Proposal will have the effect of allowing some exempt development types to occur, the SEPP requires a public authority carrying out the work that may have an impact on a heritage conservation area to give written notice to the relevant council.

SEPP NO.64 – ADVERTISING AND SIGNAGE

Despite the provisions for signage under LEP 2014, SEPP No.64 prohibits the display of signage on land that is identified as a conservation area. The Planning Proposal will make the signage controls on the site compatible with the remainder of West Wallsend.

SEPP (HOUSING FOR SENIORS OR PEOPLE WITH A DISABILITY) 2004

The SEPP requires a proposed Seniors Living development to retain, compliment and harmonise with any heritage conservation area identified in the local environmental plan. This is considered acceptable as the mapping of the site draws attention to the heritage values of the site acknowledged in development application DA 113/2011.

SEPP (AFFORDABLE RENTAL HOUSING) 2009

The SEPP allows for the demolition of dwellings and associated structures except where the structures are located in a HCA. The SEPP also allows complying development for the purpose of affordable rental housing except on land that is identified in a HCA. This restriction on development is consistent with similar restrictions already placed on land in a HCA through the E&C Code. This control is considered acceptable given the heritage values of the site.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The maps provided are adequate for community consultation.

Community consultation - s55(2)(e)

Has community consultation been proposed? **No**

Comment : Council has not proposed a consultation period. It is considered 28 days is an appropriate consultation period given there is a history of planning matters to be considered.

Additional Director General's requirements

Are there any additional Director General's requirements? **Yes**

If Yes, reasons :

PROJECT TIMELINE

Council's timeline nominates the Planning Proposal's completion within nine (9) months after the Gateway Determination. It is recommended that a twelve (12) month completion timeframe be allocated which will allow Council to properly consider the proposal.

This timeframe will require the Planning Proposal to be completed by February 2016.

DELEGATION AUTHORISATION

Council requests the use of delegations in respect of the Minister's plan making function under section 59 of the Act for the planning proposal. It is recommended Council be granted these delegations.

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 :

The Standard Instrument Lake Macquarie LEP 2014 is in force.

Assessment Criteria

Need for planning
proposal :

A planning proposal is considered the most effective and timely method available to amend the HCA and achieve the objectives of the proposal.

The planning proposal will satisfy condition 4B of Development Consent No. DA/113/2001 issued by Lake Macquarie City Council which requires all lots within the subject site to comply with the Heritage and Urban Design Guidelines (HUDG) prepared by Robertsdays dated June 2012.

The planning proposal requires the principles of the HUDG to be incorporated into Lake Macquarie DCP 2014 to give effect to condition 4B. Council has commenced this work.

Consistency with
strategic planning
framework :

LOWER HUNTER REGIONAL STRATEGY (LHRS)

The proposal is consistent with the LHRS as it ensures that the scale of new development adjacent to existing villages respects and preserves their character and cultural heritage through precluding complying development on the site. The planning proposal does not halt the development of the 375 residential lots already approved on the site which contribute to the dwelling targets in the Regional Strategy.

NEWCASTLE – LAKE MACQUARIE WESTERN CORRIDOR PLANNING STRATEGY (WCPS)

One of the development criterion in the WCPS is to ensure appropriate development occurs near heritage items, places of heritage significance and conservation areas. The planning proposal is consistent with this criteria.

LIFESTYLE 2030 STRATEGY

The proposal is consistent with the strategic directions of Lifestyle 2030, one of which requires controls to be prepared and implemented to provide locally specific urban design requirements and guidance, particularly in character areas such as West Wallsend.

The Planning Proposal will contribute to the objectives of the Lake Macquarie Aboriginal Heritage Management Strategy and Council's Sensitive Aboriginal Landscapes Mapping which is a strategic direction of the Local Strategy

Environmental social
economic impacts :

HERITAGE

The HUDG recognizes that West Wallsend has a significant heritage character and it seeks to establish controls to integrate this into the new subdivision through the building and subdivision design. The guidelines provide direction on the subdivision layout with respect to the original town layout. They also determine how buildings are to be sited to complement the existing character of West Wallsend.

OEH granted General Terms of Approval to the subdivision under DA/113/2001. Therefore Council is of the view that the Planning Proposal does not impact on the declared Aboriginal Place and does not need to be referred to OEH from an Aboriginal heritage perspective.

The site is declared an Aboriginal Place under the National Parks and Wildlife Act 1974. It is recommended that the matter be referred to the Local Aboriginal Land Council to properly consider its comments.

SOCIAL/ECONOMIC

Impacts on the various communities are both adverse and favourable. The existing residential community concerns will be accommodated through imposing the HUDG principles as it will ensure that future development will be sympathetic to the existing settlement. Land owners of the new housing estate will be disadvantaged by restriction of the bulk and scale and design elements of new housing. These guidelines may impose additional costs on construction as well. On balance, the impacts will result in a favourable outcome for West Wallsend as the proposed changes to the existing settlement will be less intrusive.

ENVIRONMENTAL

The site contains an Ecological Endangered Community; however the intent and effect of the planning proposal will not increase development pressure in addition to the existing approval of 375 lots. Biodiversity offsets have been secured through consultation with OEH as part of DA/113/2001.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Other**

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
Lake Macquarie City Council_17-02-2015_Request for Gateway Determination - West Wallsend Heritage Conservation Area_.pdf	Proposal Covering Letter	Yes
2015-02-17 Planning Proposal West Wallsend Heritage Conservation Area.pdf	Proposal	Yes
Attachment 1 - Council Report West Wallsend Heritage Conservation Area.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions: **2.3 Heritage Conservation
3.1 Residential Zones**

Additional Information : **1. 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 is classified as low impact as described in A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013) however given the planning history of the site and its complexity it must be made publicly available for a

minimum of 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 2013).

2. Consultation is required with Local Aboriginal Land Council under section 56(2)(d) of the EP&A Act.

2. 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).

3. The timeframe for completing the LEP is to be 12 months.

Supporting Reasons :

1. The PP proposes to provide protection to the existing heritage character of West Wallsend village as required by the Development Consent DA/113/2001.

Signature:



Printed Name:

K. O'Leary

Date:

24-2-2015