

Service Station additional permitted use at Fishery Point Road Morisset

Proposal Title : **Service Station additional permitted use at Fishery Point Road Morisset**

Proposal Summary : **The planning proposal seeks to introduce provisions to facilitate the expansion of the existing service station at 606 - 608 Fishery Point Road to permit development of a car wash.**

PP Number : **PP_2015_LAKEM_007_00** Dop File No : **15/07597**

Proposal Details

Date Planning Proposal Received : **19-Jun-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 : **Spot Rezoning**

Location Details

Street : **Fishery Point Road**

Suburb : **Morisset** City : Postcode : **2264**

Land Parcel : **Lot 1 DP 723285 and Lot 1 Sec 25 DP 758707**

DoP Planning Officer Contact Details

Contact Name : **Dylan Meade**

Contact Number : **0249042718**

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RPA Contact Details

Contact Name : **Gabriele Calcagno**

Contact Number : **0249210509**

Contact Email : **gcalcagno@lakemac.nsw.gov.au**

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**

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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 :	3

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 : **The proposal was original received on 6 May 2015. Council was advised that the Department was unable to process the planning proposal as the covering letter referred to incorrect sections of the Act and did not specifically request a Gateway determination. Council was also advised that the planning proposal should be updated to remove the proposed rezoning of land to RE2 as this would not be supported by the Department. A revised planning proposal was received on 19 June 2015.**

External Supporting Notes :

Adequacy Assessment**Statement of the objectives - s55(2)(a)**

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

Comment : **The statement of objectives provided explains the intent of the proposal is to facilitate the expansion of an existing service station at Fishery Point Road for the purposes of an ancillary car wash.**

The statement of objectives is supported.

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

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

Comment : **The explanation of provisions explains the objectives will be achieved by amending the Lake Macquarie LEP 2014 by permitting 'service station' on 606 and 608 Fishery Point Road as an additional permitted use.**

The explanation of provisions is supported. The definition of service station include the cleaning of motor vehicles.

Ideally, the planning proposal should rezone the subject site to an appropriate zone that permits service stations with consent. The planning proposal states that a range of business and industrial zone do permit service stations, but these are unsuitable for a variety of reasons. The main argument for the additional permitted use is that there is no strategic justification for the creation of a new local center or employment land in

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isolation. This is despite the planning proposal seeking to allow expansion of an retail use on the site.

The Morisset Structure Plan identifies the subject site and surrounding land as suitable for residential development, subject to biodiversity investigations. Council advises that it is not ready to progress a planning proposal that implements the structure plan. Rezoning the subject site to a business or industrial zone may preempt these investigations. In this case, an additional permitted use is supported.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.3 Mining, Petroleum Production and Extractive Industries

2.2 Coastal Protection

2.3 Heritage Conservation

3.4 Integrating Land Use and Transport

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 19—Bushland in Urban Areas

SEPP No 33—Hazardous and Offensive Development

SEPP No 44—Koala Habitat Protection

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 :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The planning proposal states that the proposal fits within the definition of a 'low' impact Planning Proposal and it should therefore be exhibited for a minimum of 14 days.

It is agreed that the proposal is of low impact. Exhibition for 14 days is recommended.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

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Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date : **April 2014**

Comments in
relation to Principal
LEP :

The Lake Macquarie LEP 2014 Is in force.

Assessment Criteria

Need for planning
proposal :

The planning proposal is required to facilitate the expansion of the existing service station (606 to 608 Fishery Point Road) to permit development of a car wash with consent. The subject site is zoned RU6 Rural Transition. Service stations are prohibited in this zone.

Consistency with
strategic planning
framework :

LOWER HUNTER REGIONAL STRATEGY

The LHRS does not identify the subject site as 'proposed urban area' as stated in the planning proposal. The site is identified as a 'rural and resource' area. The planning proposal is considered consistent with the LHRS as the scale of the proposed development preserves the character of the surrounding land in Morisset.

MORISSET STRUCTURE PLAN

The Morisset Structure Plan identifies the subject site and surrounding land as suitable for residential development in a short term timeframe, subject to biodiversity issues being resolved.

The planning proposal argues that rezoning the subject site to residential as outlined in the Structure Plan is inappropriate:

- *as further studies are required to determine the suitability of a residential zone for the subject land and surrounding land;
- * the subject has potential for land contamination due to use as a service station

It is agreed that rezoning the subject site and surrounding land to residential as identified in the Morisset Structure Plan is premature given the further studies investigating the biodiversity issues are required.

STATE ENVIRONMENTAL PLANNING POLICIES

SEPP No 19—Bushland in Urban Areas

The proposal states that this SEPP is applicable as the site adjoins land zoned for public open space (RE1) that contains bushland, and as such consistency with Clause 9 is required. Clause 9 only applies to development consent and as such the Clause is not applicable. The proposal is considered consistent with the SEPP otherwise.

SEPP No 44—Koala Habitat Protection

The planning proposal advises that the southern edge of the site contains scattered trees and that a flora and fauna report may be required as part of the DA. Council advises that the potential for koala habitat will be considered at this time. It is considered that the proposal is considered consistent with this SEPP and that koala habitat can be considered as part of the future development assessment.

SEPP No 55—Remediation of Land

The planning proposal states that this SEPP is applicable as the subject site contains an existing service station. Service stations are development referred in the Table 1 of the Guideline as some activities that may cause contamination. As such, Clause 6 of the SEPP requires that Council be satisfied that the land is suitable in its contaminated state.

It is recommended the Gateway advise Council that due to the existing use as a service station, some preliminary investigation under Clause 6 may be required. However, Clause 7 contains adequate additional provisions for any contamination to be considered during development assessment.

SEPP (Infrastructure) 2007

The planning proposal advises that the SEPP requires consultation with RMS. This is only required for development applications, and the SEPP is considered not applicable.

SECTION 117 (LOCAL PLANNING) DIRECTIONS

1.1 Business and Industrial Zones

The proposal states that this Direction is not applicable as it is proposed to insert 'service station' as an additional permitted use instead of rezoning the site to a business or

industrial zone. Inserting an additional permitted use is considered equivalent to rezoning the site to a business or industrial zone as it will legitimise employment uses on the site. The planning proposal is considered inconsistent with the Direction as the new employment area is not identified in an endorsed strategy. The inconsistency is considered of minor significance as the additional permitted use relates to a small area of land.

1.2 Rural Zones

The planning proposal does not consider if this Direction is applicable. The Direction is considered applicable as the subject site is currently zoned RU6 Rural Transition. The planning proposal is consistent with this Direction as it proposes no changes to the permitted density of the land within a rural zone.

3.4 Integrating Land Use and Transport

This Direction is applicable as the proposal amends a provision related to urban land, being land used for the purpose of a service station. The provisions to insert an additional permitted use are considered consistent with the aims, objectives and principles of the:
(a) Improving Transport Choice – Guidelines for planning and development (DUAP 2001),
and
(b) The Right Place for Business and Services – Planning Policy (DUAP 2001).

4.2 Mine Subsidence and Unstable Land

This Direction is applicable as the subject site is within a Mine Subsidence District. Consultation with the Mine Subsidence Board is required following Gateway determination.

4.4 Planning for Bushfire Protection

This Direction is applicable as the subject site is identified as bushfire prone. Consultation with the Commissioner of the NSW Rural Fire Service is required following Gateway determination.

6.3 Site Specific Provisions

The planning proposal is inconsistent with this Direction as it proposes to introduce an additional permitted use instead of rezoning the land to allow service station, or permitting the use under the existing RU6 Zone.

As rezoning the land to a zone at this time will preempt implementation of the Morisset Structure Plan, the provisions of the planning proposal to allow an additional permitted use that are inconsistent with this Direction are of minor significance.

Environmental social
economic impacts :

ENVIRONMENTAL

The planning proposal identifies that the 'Lake Macquarie Native Vegetation & Corridors Map 2011' shows a crossing point to the south east of the subject site. The vegetation on the site itself consists of scattered trees with a cleared understorey, and the proposal states that it is unlikely the proposal will impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

As discussed, the Morisset Structure Plan identifies the subject site and surrounding land as suitable for residential development in the short term providing that biodiversity issues can be resolved. Even though the rezoning affects a small portion of this land, consultation with OEH is recommended to ensure that the proposal does not preclude a future biodiversity resolution for the area subject to the Structure Plan.

Council also raises contamination, mine subsidence, traffic and bushfire as other environmental issues that may require resolution as part of the planning proposal. Contamination, bushfire and mine subsidence are addressed as part of the Section 117 and SEPP assessment. It is considered that traffic issues can be dealt with as part of any future development assessment considering the the proposal applies to an existing use.

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ECONOMIC AND SOCIAL

No negative social or economic impacts are identified. The development of a car wash may have a net community benefit.

Assessment Process

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

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

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage**
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
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Planning Team Recommendation

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

S.117 directions:

- 1.1 Business and Industrial Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 3.4 Integrating Land Use and Transport**
- 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**

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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 (Planning & Infrastructure 2013) and must be made publicly available for a minimum of 14 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 (Planning & Infrastructure 2013).

2. 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 (S.117 Direction 4.2 Mine Subsidence and Unstable Land)
- NSW Rural Fire Service (S.117 Direction 4.4 Planning for Bushfire Protection)
- NSW Office of Environment and Heritage

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. Once the consultation is undertaken with the public authorities, and information is provided, Council is to update its consideration of S117 Directions.

3. 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).

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

It is recommended that the Secretary's delegate also determine that the proposal's inconsistencies with Section 117 Directions 1.1 Business and Industrial Zones and 6.3 Site Specific Provisions are of minor significance.

Supporting Reasons :

The intent of the proposal is supported as will facilitate expansion of an existing services station in an appropriate location.

Signature:



Printed Name:

TRENT WANK

Date:

30/6/15