



Mr Brian Bell
General Manager
Lake Macquarie City Council
Box 1906
HUNTER REGION MAIL CENTRE NSW 2310

Our ref: PP_2015_LAKEM_007_00 (14/07597)
Your ref: RZ/4/2014

Att: Gabriele Calcagno

Dear Mr Bell,

Planning Proposal to amend Lake Macquarie Local Environmental Plan 2014

I am writing in response to your Council's letter dated 5 May 2015 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal allow service stations as an additional permitted use with consent on land at Morisset.

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

I have agreed the planning proposal's inconsistency with S117 Direction 6.3 Site Specific Provisions is of minor significance. While I have supported the progression of an additional permitted uses approach in this instance, Council should investigate a suitable zone to replace the existing RU6 Rural Landscape that applies to the site. This should occur when Council completes its Morisset Structure Plan.

I have also agreed the planning proposal's inconsistency with S117 Direction 1.1 Business and Industrial Zones is of minor significance. No further approval is required in relation to this Direction.

In regards to consistency with State Environmental Planning Policy (SEPP) 55 - Remediation of Land, it appears that as the site will not change use from a service station, a detailed preliminary investigation under Clause 6 will not be required. However, the SEPP 55 requires Council, and not the Department to be satisfied the land is suitable in its contaminated state. Council should therefore undertake preliminary investigations to determine whether the land is contaminated; and if the land is contaminated, Council is satisfied that the land is suitable in its contaminated state for the purpose of a service station. Consultation with the NSW Environment Protection Authority (EPA) is not required as part of the Gateway determination, but Council may contact the EPA for advice in relation to possible contamination assessment.

The Minister delegated 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

Gateway Determination

Planning Proposal (Department Ref: PP_2015_LAKEM_007_00): to introduce provisions to permit the expansion of an existing service station with consent on land at Morisset.

I, the General Manager, Hunter and Central Coast Region at the Department of Planning and Environment as delegate of the Minister for Planning, have determined under section 56(2) of the EP&A Act that an amendment to the Lake Macquarie Local Environmental Plan (LEP) 2014 to introduce provisions to allow service stations as an additional permitted use with consent on land at Morisset should proceed subject to the following conditions:

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.

Dated 1st day of July 2015.



David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and Environment

Delegate of the Minister for Planning



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Lake Macquarie City Council is authorised to exercise the functions of the Minister for Planning 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_2015_LAKEM_007_00	Planning proposal to introduce provisions to permit the expansion of an existing service station with consent on land at Morisset

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 1 July 2015

David Rowland
General Manager
Hunter and Central Coast Region
Planning Services
Department of Planning and Environment