

Amendment 50 - Lake Macquarie LEP 2004 - Ramsgate Estate, Wyee Point

Proposal Title : Amendment 50 - Lake Macquarie LEP 2004 - Ramsgate Estate, Wyee Point

Proposal Summary : The Planning Proposal aims to amend the Lake Macquarie LEP 2004 to:

1. Rezone 37.15ha of land to facilitate the urban development and biodiversity conservation of a paper subdivision known as Ramsgate Estate, Wyee Point.
2. Reclassify 71 allotments from community to operational land to facilitate the appropriate development of the site.
3. Remove 44 allotments from the Land Acquisition Map within Lake Macquarie LEP 2004.
4. Insert a new provision within Schedule 8 - Land Subject to Special Development Requirements. This includes preparation of a Development Control Plan (DCP) including a Structure Plan for the site.
5. Include Ramsgate Estate, Wyee Point as an Urban Release Area in accordance with clause 62.

PP Number : PP_2011_LAKEM_010_00

Dop File No : 10/06609-1

Proposal Details

Date Planning
Proposal Received : 11-Jan-2012

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 :

Suburb :

City :

Postcode :

Land Parcel : 608 allotments known as Ramsgate Estate, Wyee Point

DoP Planning Officer Contact Details

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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) :	37.15	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	150	No. of Dwellings (where relevant) :	150
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 : The Planning Proposal was submitted on 18 July 2011. The Regional Team reviewed the proposal, and spoke at length with Lake Macquarie Council as the Planning Proposal submitted for Gateway Panel Determination was inadequate. Due to the complex issues addressed in the Planning Proposal, the document did not express the aims, intention, zoning, acquisition and reclassification matters, nor clearly identify in the maps issues relating to the proposal and the studies. Further details were sought from the Council and several meetings between the Department and Council were undertaken in the past 6 months.

Council has reviewed the Planning Proposal and has resubmitted the document to the Department on 11 January 2012.

External Supporting Notes : The subject land (known as Ramsgate Estate) was registered on 6 November 1885 resulting in 608 allotments, with an average allotment size of 400m2, and a network of 12 streets (refer to PP Appendix 2 - Study Area Map). Some initial clearing and preliminary construction of roads occurred shortly after registration of the plan. The development of the site was aborted due to a dispute over legal access with the owner on the adjacent land. This resulted in the adjacent land being subdivided in 1887 with a narrow triangular allotment along the common boundary, and a street alignment out of alignment with the those on Ramsgate Estate.

The ownership distribution within the Estate is highly fragmented:
* 146 allotments owned by Council
* 368 allotments owned by FTLR Pty Ltd
* 93 lots owned by 31 individual private owners.

In 1987, Lake Macquarie City Council (LMCC) indicated support for development of the land by inserting Schedule 2 (Subdivision Standards) into Lake Macquarie LEP 1984. This amendment permitted dwelling houses with consent provided lots had access to water and sewerage service, and a minimum site area of 800m2. This facilitated the development of the adjoining site, and now enables the present proposal to be examined in conjunction

with a more appropriate subdivision pattern.

In 1987 water facilities were available from the existing services in the adjoining Wyee Point Estate. Negotiations were undertaken with Wyong Shire Council who granted an 'approval in principle' for effluent to be treated in Mannering Park Waste Water Treatment Plant.

Prior to implementation of the plan, the Department of Public Works and the Hunter Water Corporation determined to include Wyee Point Estate in the 'Fringe Area Sewer Scheme'. This scheme required the approval of adjoining land owners for construction of the sewer rising main to Dora Creek Waste Water Treatment Plant on their land.

When Lake Macquarie LEP 2004 (LM LEP 2004) was gazetted, negotiations with the landowners were in a stalemate. This in conjunction with an increased awareness of the environmental attributes of the site, resulted in Council zoning the subject land a combination of:

0.07ha - Zone 5 Infrastructure Zone
1.8ha - Zone 6(1) Open Space Zone
6.65ha - Zone 7(1) Conservation (Primary) Zone
0.08ha - Zone 7(3) Environmental (General) Zone
28.55ha - Zone 10 Investigation

As part of this PP, under LM LEP 2004, the proposed zones and land area to be rezoned are:

11.23ha - Zone 2(1) Residential Zone
18.08ha - Zone 7(1) Conservation (Primary) Zone
7.84 ha - Zone 7(5) Environmental (Living) Zone

Under the draft Lake Macquarie LEP 2011

11.23ha - R2 Low Density Residential
18.08ha - E2 Environmental Conservation
7.84ha - E4 Environmental Living

The proposal includes reclassifying 71 lots from community to operational (70 lots in DP 1596, and Lot 1 DP 124592).

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The statement of outcomes satisfactorily outlines the intended outcomes of the Planning Proposal.

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

Is an explanation of provisions provided? Yes

Comment : The proposed amendments to the Lake Macquarie LEP 2004 (LM LEP 2004) have been satisfactorily explained within the Planning Proposal (PP).

Rezone Land

The amendments to LM LEP 2004 includes rezoning land from the following zones:
5 Infrastructure Zone , 6(1) Open Space Zone, 7(1) Conservation (Primary) Zone, 7(3) Environmental (General) Zone, and 10 Investigation Zone.

The PP will rezone land to a mixture of the following zones:

2(1) Residential Zone, 7(1) Conservation (Primary) Zone and 7(5) Environmental (Living) Zone.

Reclassification of Land

The PP aims to reclassify 71 allotments of land from community to operational status. This

reclassification process will enable the future orderly development of the site, including redistribution of land ownership to enable the re-subdivision of allotments into a more appropriate layout, as well as assist in any biodiversity offset credit arrangement.

Council has identified that it may be appropriate in the future to consolidate allotments within the proposed 7(1) Conservation (Primary) zone to enable management of the land to be undertaken by a single entity. Consequently, Council has identified that at the completion of the development of Ramsgate Estate, Council may seek to reclassify all land within its ownership within the 7(1) Conservation (Primary) Zone to community land. This action does not form part of this present PP.

Land Acquisition Map

Council proposes to amend the Land Acquisition Map within LM LEP 2004 to remove Council's acquisition liability over 44 allotments within the 7(1) Conservation (Primary) Zone. Council has concluded that the land acquisition liability has been applied in an ad hoc manner with certain lots identified for acquisition, whilst adjoining land within the same ownership with similar property conditions have not. Consequently, Council indicates that removal of this liability will ensure that all landowners within the 7(1) Conservation (Primary) Zone are treated equitably as part of the future land ownership redistribution.

Urban Release Area

In accordance with cl. 62 of the LM LEP 2004, the Ramsgate Estate will be identified as an urban release area.

Schedule 8

Council has identified that a new clause be inserted into LM LEP 2004 - Schedule 8 - Land Subject to Special Development Requirements. This includes preparation of a Development Control Plan (DCP) for the land and adoption by Council prior to consent for any development. Council has nominated that the DCP must include a structure plan for the site and lists matters to be discussed as part of this document.

Draft Lake Macquarie LEP 2012

The following changes to the draft Lake Macquarie LEP 2012 (Council's Standard Instrument LEP) are proposed:

Zoning Map

- * 2(1) Residential Zone will be converted to R2 Low Density Residential
- * 7(1) Conservation (Primary) Zone will be converted to E2 Environmental Conservation
- * 7(5) Environmental (Living) will be converted to E4 Environmental Living

Minimum Lot Size Map

R2 - 450m²
E2 - 40ha
E4 - 1200m²

Height of Building Map

R2 - 8.5m
E2 - 5.5m
E4 - 8.5m

Foreshore Building Line Map

Will be varied so that the existing Lots 14, 15 and 16 Section D in DP 1596 reduced to 12m rather than its present 30m. This 12m approach will ensure consistency with the existing building line of dwellings already erected in the locality.

Sensitive Aboriginal Cultural Landscape Map

The map will be amended to reflect the potential archaeological deposits identified with the Local Environmental study.

Land Acquisition Maps

Remove the acquisition liability as per previous discussions.

Part 7 Additional Local Provisions

Insert into Part 7 Additional Local Provisions a clause for the Ramsgate Estate, Wyee Point land to address development matters.

Flood Control Map

Update the Flood Control Map to reflect findings within the Local Environmental Study

Urban Release Area

Update the Urban Release Map to reflect the subject land as an Urban Release Area.

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

1.3 Mining, Petroleum Production and Extractive Industries

2.1 Environment Protection Zones

2.2 Coastal Protection

2.3 Heritage Conservation

2.4 Recreation Vehicle Areas

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

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

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **No**

d) Which SEPPs have the RPA identified?

SEPP No 14—Coastal Wetlands

SEPP No 19—Bushland in Urban Areas

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 71—Coastal Protection

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **These inconsistencies will be further examined in the following sections of this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Council has provided the following maps:

*** Location Map**

*** Study Area Map**

*** Existing Zoning Map**

*** Land subject to Rezoning Map**

- * Proposed Zoning Map
- * Land Subject to Reclassification Map
- * Land Subject to removal of Acquisition Map
- * Urban Release Area Map
- * Aboriginal Cultural Heritage Map
- * Bushfire Prone Land Map
- * Flood Levels Map

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment : The Council has proposed 28 days for public consultation. Council has previously consulted with public authorities with dates ranging from 2009 until recently. Consequently, due to the nature of issues raised during previous submissions, the lapse in time, and as this PP is not considered minor in nature, the 28 day consultation period is supported.

The PP will need to be exhibited in accordance with LEP Practice Note PN09-003 Classification and Reclassification of Public Land through a LEP and a Guide to Preparing LEPs. At completion of the public exhibition period, Council will need to hold a public hearing for the reclassification of community land to operational land pursuant to provisions of the Local Government Act 1993.

As part of the previous LES, the following consultation was undertaken:

Former DECCW - indicated that the proposed offsets within the site boundaries, being land zoned 7(1) Conservation (Primary) Zone will not be sufficient to meet the 'improve or maintain' biodiversity benchmark as a result of the proposed vegetation loss. Further discussions regarding biodiversity offsets will be required.

Hunter Water Corporation - required a Water and Sewer Servicing Strategy to be undertaken for the proposal. Further consultation will be required following the Gateway Determination.

Koompahtoo Local Aboriginal Council - required a detailed Aboriginal archaeological assessment to be prepared for the subject site. Council notes that the study was undertaken in conjunction with the Land Council and other interested parties as part of the LES.

Former NSW Heritage Office - required a European Heritage Assessment be undertaken on the subject site. The assessment was undertaken as part of the LES, however no items of European significance were identified.

NSW Rural Fire Service - required a Bushfire Threat Assessment be undertaken. This was completed under the Planning for Bushfire Protection 2006. The RFS will be re-consulted as part of the Gateway Determination.

Former Roads and Traffic Authority - required a detailed traffic study as part of the LES to identify any road infrastructure upgrades that may result from future development of the site, including State infrastructure requirements. The site has been mapped as an Urban Release Area and consequently is identified under the Draft Special Infrastructure Contribution which addresses the RTA State infrastructure requirements.

Former Ministry of Transport - required a traffic impact assessment be undertaken as part of the LES. The study has indicated that the existing road network has sufficient capacity to cater for the urban development of the site.

Department of Primary Industries - indicated that a mining lease CCL 721 and Authorisation 384 is held by Centennial Coal as part of the Mannering Colliery. Further consultation will be required as part of the Gateway Determination.

Mine Subsidence Board - The subject site is located within a mine subsidence district. As part of the Gateway Determination further consultation will be required.

Additional Director General's requirements

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

If Yes, reasons : The following s117 Ministerial Directions apply and are relevant to this PP:

1.3 Mining Petroleum Production & Extractive Industries

Under cl.3, the s117 Direction applies if the PP would have the effect of prohibiting or restricting development of resources including coal, other minerals and production of petroleum or extractive materials. The site is covered by a coal lease CCL 721 and Authorisation 384 held by Centennial Coal as part of the Mannering Colliery. The Department of Primary Industries has advised that the area is underlain by a potential coal resource and mine workings. Centennial Coal has advised that preliminary mining has commenced under the site in 2010.

The proposed zone and permitted land uses are likely to be incompatible with such development. Consequently, as part of the PP the planning authority must further consult with the Director General of the Department of Primary Industries in accordance with cl.5 of the Direction. Once a reply is received, the consistency with this Direction can be determined. This is to occur prior to undertaking community consultation.

2.1 Environmental Protection Zones

Under cl.5, a PP that applies to land within an environmental protection zone or land otherwise identified for environmental protection purposes in an LEP, must not reduce the environmental protection standards that apply to the land. The PP will impact on 3 Endangered Ecological Communities (Swamp Sclerophyll Forest on Coastal Floodplains, River-flat Eucalypt Forest on Coastal Floodplains, and Coastal Saltmarsh) as well as impacting on 1 threatened flora species (*Tetratheca juncea*), and the site is known to contain 5 threatened fauna species. The proposal will rezone the site for residential use, and associated land clearing and will require off-site biodiversity offsets to be determined in consultation with Environment Protection Authority and in consideration with the Lower Hunter Region Conservation Plan.

A PP may be inconsistent with the terms of the s117 Direction if the DG (or delegate) is satisfied that the provisions of the PP that are inconsistent are justified or of minor significance. Due to the biodiversity values of the site, the proposal is not considered to be of minor significance, and will therefore require further investigation and negotiation with the Environmental Protection Authority to determine consistency with this Direction.

2.2 Coastal Protection

In accordance with cl.3 this s117 Direction applies as the land is located within the coastal zone. It is considered that this PP is consistent with the provisions of the Direction as under cl. 4, the PP is consistent with the NSW Coastal Policy, the Coastal Design Guidelines and relevant provisions of s733 of the Local Government Act 1993.

2.3 Heritage Conservation

In accordance with cl.4 a PP must contain provisions that facilitate the conservation of items, places, buildings, works, relics and moveable objects, or precincts of environmental heritage to an area, any Aboriginal objects, places or landscapes of heritage significance to Aboriginal culture and people. The site contains 2 Aboriginal cultural heritage sites, and a midden with Potential Archaeological Deposit.

Consequently, in accordance with cl.5 of this s117 Direction, the DG (or delegate) may agree that the provisions of the PP that are inconsistent with the terms of the s117 Direction where the indigenous heritage significance of the item, area, object or place is being conserved by the existing or draft instrument, legislation or regulations. The LM LEP 2004 has provisions that facilitate heritage protection, and the Aboriginal

Archaeology Report concluded that the areas zoned for urban purposes are considered to have nil to low Aboriginal cultural significance. A requirement to ensure the appropriate management of the Aboriginal cultural heritage of the site will also be inserted into Schedule 8 of LM LEP 2004. Any impacts will be assessed at development application stage under the National Parks and Wildlife Act.

3.1 Residential Zones

The PP seeks to create additional residential land. In accordance with objectives and cl. 4 and 5, the PP includes provisions that are consistent with the s117 Direction.

3.4 Integrating Land Use and Transport

In accordance with the objectives and cl.4 of the s117 Direction, the PP includes provisions that are consistent with the s117 Direction.

4.1 Acid Sulfate Soils

Under cl.6, a planning authority must not prepare a PP that proposes an intensification of land uses on land identified as having a probability of containing acid sulfate soils (ASS) on ASS maps unless the planning authority has considered an ASS study assessing the appropriateness of the change of land use given the presence of ASS.

Provisions with the LM LEP 2004 and DCP will apply to ensure that future development of the site avoids any significant impacts from ASS. The Department of Land and Water Conservation ASS Risk Maps, and laboratory results conducted as part of the LES for the proposal indicate that sections of the northern part of the site adjacent to Lake Macquarie is highly probable of having actual or potential ASS within 1m of the existing surface. The majority of this land is to be located with a zone 7(1) Conservation (Primary). Consequently, in accordance with cl.8(b) of this s117 Direction, the DG (or delegate) may agree that the provisions for the PP that are inconsistent with the terms of the s117 Direction are of minor significance.

4.2 Mine Subsidence and Unstable Land

This Section applies as the site is within the Lake Macquarie Subsidence District. In accordance with cl. 4(a) of the s117 Direction when preparing a PP that would permit development on land within a Mine Subsidence District, Council must consult with the Mine Subsidence Board. Although consultation was undertaken previously, due to the time elapsed, and the recent preliminary mining under the site, it is appropriate that the Mine Subsidence Board be consulted again. Once a reply is received from the Mine Subsidence Board, the consistency with the s117 Direction can be determined. This is to occur prior to undertaking community consultation.

4.3 Flood Prone Land

Under cl. 3 the s117 Direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or provision that affects flood prone land. In accordance with cl.4 a PP must include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy and principles of the Floodplain Development Manual 2005 (including the Guidelines on Development Controls on Low Risk Areas).

Council, and the Stormwater and Flooding Assessment undertaken by Northrop Engineers notes that the flooding is likely to impact the area identified as zone 7(1) Conservation (Primary) Zone. Accordingly, this satisfies cl.5 of the s117 Direction as a PP must not rezone land within the flood planning areas to a residential use. It is noted that there are several lots within the proposed zone 7(5) Environmental (Living) zone and the zone 2(1) Residential zone adjoining Lake Macquarie (where dwellings are already located), which are located on the limits of the 1 in 100 year ARI flood extent, and will be potentially affected by the predicted 2100, 1 in 100 year ARI flood extent.

Under cl.9(b) of the s117 Direction, the DG (or delegate) may agree that the extent of the inconsistencies within the provisions of the PP, are considered of minor significance.

4.4 Planning for Bushfire

The subject land is identified as Bushfire Prone Land. In accordance with cl.4 and 7 of the s117 Direction, to enable examination of the consistency with this Direction, the Council must re-consult with the Commissioner of the NSW Rural Fire Service following receipt of the Gateway Determination. Once a reply is received from the NSW Rural Fire Service, the consistency with this Direction can be determined. This is occur prior to undertaking community consultation.

5.1 Implementation of Regional Strategies

In accordance with cl. 4, a PP must be consistent with a regional strategy released by the Minister for Planning. The subject site is not identified within the Lower Hunter Regional Strategy as a proposed urban area, but it is part of the existing urban area. The site is not part of the Watagan Stockton Green Corridor. The site is identified as containing coal resources and this is to be addressed through consultation with Department of Primary Industries (Minerals & Petroleum) and the Mine Subsidence Board. Council however identifies that the development is based on the principles identified within the Strategy. In accordance with cl. 5 of the s117 direction, the DG (or delegate) may agree that the extent of the inconsistency with the regional strategy are of minor significance and the PP achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

6.2 Reserving Land for Public Purposes

In accordance with cl 4 of the s117 Direction, a PP must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the DG (or delegate). Under cl. 7 of the s117 Direction, Lake Macquarie City Council has requested that provisions be included in the PP to rezone and remove a reservation on land that is reserved for public purposes because the land is no longer designated by that public authority for acquisition.

In accordance with cl 8(d) of the s117 Direction, the DG (or delegate) may agree that the provisions of the PP that are inconsistent with the terms of this Direction are of minor significance. Due to the complexity of land ownership within the proposed development, the removal of Council's land acquisition liabilities, and reclassification of land from community to operational land, the DG or delegate may wish assess and determine the consistency with the s117 Direction after outcomes of the public exhibition and public hearing are known.

6.3 Site Specific Provisions

In accordance with cl 4 of the s117 Direction, a PP that will amend another LEP in order to allow a particular development to be carried out, must allow the land use to be carried out in the zone the land is situated; allow the land use without imposing any development standards or requirements in addition to those already contained in the zone or existing LEP.

Council has identified that a new clause be inserted into LM LEP 2004 - Schedule 8 - Land Subject to Special Development Requirements. This includes preparation of a Development Control Plan (DCP) for the land and adoption by Council prior to consent for any development. Council has nominated that the DCP must include a structure plan for the site and lists matters to be discussed as part of this document. This mechanism will enable the paper subdivision to develop in accordance with sound planning principles that recognise the constraints and the requirements for integration with adjoining urban areas. A provision to satisfy the intention of this clause will be inserted into LM LEP 2012 - Part 7 Additional Local Provisions.

Consequently, under cl 6 of the s117 Direction, the DG (or delegate) may agree that the extent of the inconsistencies within the provisions of the PP, are considered of minor significance.

s117 Directions 2.4, 3.2, 3.3, and 6.1 also have limited application to this PP and it is considered that there are no inconsistencies with these Directions.

The following section examines State Environmental Planning Policies applicable to the PP:

SEPP 14 - Coastal Wetlands

In accordance with cl. 2, the policy aims to ensure that coastal wetlands are preserved and protected in the environmental and economic interests of the State. SEPP 14 – Coastal Wetland No. 888 and No. 889 are located along the western boundary of the subject site. Council indicates that the LES considered that there would be minimal impact on either of the adjoining wetlands as a consequence of the proposed development. A requirement to provide a detailed Stormwater Management Plan ensuring the protection of the SEPP 14 wetlands has been included within Schedule 8 of LM LEP 2004. The PP is consistent with the aims and objectives of the SEPP.

SEPP 19 - Bushland in Urban Areas

In accordance with Schedule 1 of the SEPP, this policy applies to Lake Macquarie. Under cl. 10 Council when preparing a draft LEP, shall give priority to retaining bushland, unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of the bushland.

Council has identified the land as strategically identified for urban development in conjunction with environmental conservation. The rezoning will require offsets for the environmental impacts of vegetation clearing. Part of the site is identified as Zone 7(1) Conservation (Primary) to ensure environmental protection. Consequently Council considers that the social and economic benefits of the rezoning outweigh the value of the bushland, but the development will need to address the maintain and improve test. The Department recognises Council's justification for removal of the vegetation, however further investigations are required to identify vegetation offsets for the land being cleared as part of the PP for residential and environmental living allotments.

SEPP 44 - Koala Habitat

In accordance with cl.3 the policy, it aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas. The flora and fauna studies conducted on the site did not reveal any koala habitat or potential koala habitat.

SEPP 55 - Remediation of Land

In accordance with cl. 6, when preparing a draft LEP Council must consider whether the land is contaminated and be satisfied the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes on which the land in the zone concerned is permitted to be used. Council has identified that a review of the site history and a random soil sampling procedure was used to determine contaminant concentrations across the site and none exceeded the relevant guideline levels for residential development. The PP is consistent with the aims and objectives of the SEPP.

SEPP 71 - Coastal Protection

In accordance with cl.2, the policy aims to provide: public access along the coastal foreshore; ensure suitability of development given its type, location and design in

relation with the surrounding area; reduce detrimental impacts including as a result of overshadowing or loss of scenic qualities, or impacts from coastal processes and hazards; to conserve animals and marine vegetation and habitats, and wildlife corridors; and protect cultural places, values and customs, heritage and archaeologically significant sites and items. As per cl.7 matters set out in cl.8 should be taken into account by Council when preparing a draft LEP that applies to the land.

Council has indicated that the LES reviewed the various matters for consideration identified in the SEPP, and under cl. 18, a Master Plan is required to be approved by the Minister prior to consent for development being granted. Council identified that requirements for a Master Plan to be prepared will be reinforced through the preparation of an Area Plan within Council's DCP. The PP is consistent with the aims and objectives of the SEPP.

SEPP - Mining, Petroleum Production and Extractive Industries

In accordance with cl. 2, the SEPP aims to recognise the importance of land for mining, petroleum, and extractive industries; to provide for its proper management and development; to facilitate its orderly and economic use; and establish appropriate planning controls to encourage ecologically sustainable development.

The subject land is within a Mine Subsidence District. The Mine Subsidence Board and the Department of Primary Industries will be consulted on the development of the site.

Overall adequacy of the proposal

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

If No, comment : **Sufficient information has been provided to assess the proposal in preparation of the Gateway Determination.**

Proposal Assessment

Principal LEP:

Due Date : **December 2011**

Comments in relation to Principal LEP : **Council is presently reviewing several conditions of the s.65 certificate and it is expected that Council will resubmit a revised LEP and s.64 submission, being draft Lake Macquarie LEP 2012. Consequently, this PP may occur prior to the implementation of the Principal Plan.**

Assessment Criteria

Need for planning proposal : **Council has identified that the changes to the land use zone, classification of certain lands, and the acquisition liabilities applying to the site is the only appropriate means of facilitating the urban development, and ensuring lands of high biodiversity value are appropriately managed and conserved.**

A comprehensive Local Environmental Study (LES) was undertaken by Council in 2009-2010 to assess the potential site to be utilised for urban and conservation purposes. The LES concluded that the site is suitable for rezoning to a mixture of 2(1) Residential zone, 7(1) Conservation (Primary) zone and 7(5) Environmental (Living) zone, being a balance between the economic, social and environmental values of the site.

Council has identified that the reclassification of 71 allotments of land, and removal of the Council's acquisition liability over the 44 allotments within the 7(1) Conservation (Primary) Zone, will enable equitable redistribution of land within the Ramsgate Estate to enable a more appropriate re-subdivision of the allotment and future development layout.

Council has indicated that the PP is compatible with the agreed State and Regional strategic planning directions for development in the region, and the site is located 800m from an identified village centre. Council identifies that development of the site would also resolve a long standing paper subdivision that is fragmented in ownership. The site is

Consistency with strategic planning framework :

estimated to yield approximately 150 lots/dwellings for the area and supports the proposition of a village centre at Wyee Point and supports the extension of the existing Wyee Point township.

Lower Hunter Regional Strategy (LHRS)

The site is not identified as a potential urban area within the Lower Hunter Regional Strategy due to its relatively small scale, but is part of the existing urban area. An economic objective of the LHRS is to ensure activity within the Lower Hunter complements rather than competes with the economies and communities adjoining regions. The site is identified as containing coal resources and this is to be addressed through consultation with Department of Primary Industries (Minerals & Petroleum). Council considers that the site will assist in accommodating anticipated population growth in the region, contribute and support the emerging major regional centre at Morisset, and existing township of Wyee Point. The PP meets the objectives of the LHRS by providing additional residential land and development opportunities for the future growth of the population. The proposal is within a walkable catchment to a nearby area approved for a small retail and commercial centre.

The key environmental challenges for the region identified in the LHRS are to accommodate significant population growth whilst protecting and managing biodiversity and conservation values of the region. Although further investigations are required regarding biodiversity offsets for the proposed clearing of the site, the PP considers the biodiversity values within the development site and zones areas of high biodiversity value for conservation purposes to ensure its continued protection. The site is not part of the Watagan Stockton Green Corridor.

Lake Macquarie City Council - Community Strategic Plan

Council's Lifestyle 2020 Strategy encourages development to be located with access to services and facilities, as well as ensuring alternative transport options are available to the community. Council identifies that the existing village of Wyee Point does not have sufficient population to support a general store, although development approval has been granted for such a use. Council hopes that the additional households at Wyee Point will create the demand required to enable the general store to become a viable development proposition.

Environmental social economic impacts :

The land is identified within the LM LEP 2004 for investigation for urban and conservation purposes. Between 2009-2010, Council undertook a comprehensive Local Environmental Study (LES) to assess the potential use of the site. The LES and background studies enabled Council to identify the subject site as suitable for rezoning land to a mixture of residential, environmental living and conservation purposes. The LES found the northern part of the site adjacent to Lake Macquarie has the highest level of constraints and should be conserved for its environmental qualities, the south-eastern part of the site adjoins the existing residential area of Wyee Point and has been identified suitable for residential development. The south-western part of the site has been identified as suitable for lower-density environmentally sustainable development with an appropriate vegetation management. These constraints are reflected in the proposed zoning boundaries.

Subdivision Pattern

Council has identified that development of the site utilising the current subdivision pattern will result in unacceptable environmental, social and economic outcomes. As such, the development of the land will require a new subdivision pattern to be designed and approved, resulting in a redistribution of land ownership. Council notes that the issues surrounding the redistribution of land ownership is to be resolved prior to the lodgment of any subdivision application. Council identifies that any proposal to redistribute land ownership within the Estate will be developed in consultation with the landowners.

Council has identified that due to the complexities behind the need to create a revised subdivision layout, and redistribution of land-ownership, it is likely that the provisions of the Environmental Planning and Assessment Bill 2008 relating to paper subdivisions may be required.

Aboriginal Archaeology

RPS Harper Somers O'Sullivan completed an Aboriginal Cultural Heritage Assessment. An archaeology survey of the site was conducted on 6 July 2009 in the presence of Koompahtoo Local Aboriginal Land Council and Awabakal Traditional Owners Corporation officers. Shell midden material were found extensively across the site in proximity of the foreshore, including the midden with Potential Archaeological Deposit. Two Aboriginal cultural heritage sites were also identified. The Aboriginal archaeology report concluded that areas zoned for urban uses are considered to have low impact on proposed residential zones. A requirement to ensure appropriate management of the shell middens and Aboriginal cultural heritage sites will be inserted into Schedule 8 of LM LEP 2004. The two cultural sites will be protected within the 7(1) Conservation (Primary) Zone.

European Heritage Assessment

RPS Harper Somers O'Sullivan prepared a heritage study for the site. Although early earthworks undertaken as part of the 1887 subdivision were identified, the assessment concluded that there were no significant items to be heritage listed.

Bushfire

Travers Environmental prepared a Bushfire Report. The report considered the matters raised within Planning for Bushfire Protection 2006. The report concluded that the proposed development footprint is capable of supporting asset protection zones, sufficient and effective access, and egress, with sufficient water supply. Further consideration of bushfire issues will be required as part of the application at subdivision stage.

Flora and Fauna

Travers Environmental prepared a Flora and Fauna report based on assessments carried out on the site by Conachers Travers between 2000 and 2009. The report was subsequently peer reviewed at the request of Council by Eastcoast Flora Survey and Forest Fauna Surveys.

A total of 290 species of plants were observed over the course of surveys completed by Conacher Travers (2000, 2002, 2007) and Travers Environmental (2008):

- * Six vegetation communities were also identified within the subject site.

- * Reference of the Atlas of NSW Wildlife (DECC 2008) indicated that 13 species threatened species were recorded within 10km radius of the study area. Only one species - 'Tetratheca juncea' was observed on the site during surveys.

- * 3 Endangered Ecological Communities (EEC) were observed on the site - Swamp Sclerophyll Forest on Coastal Floodplains, River-flat Eucalypt Forest on Coastal Floodplains, and Coastal Saltmarsh.

- * 253 hollow bearing trees containing 740 hollows were identified on the subject site.

Two identified areas of 'Tetratheca juncea' will be located within the proposed Zone 7(5) Environmental Living Zone. The report recommends that these areas should be contained at the rear of larger allotments or within small pockets of open space to ensure their viability. The report indicates that development of the site is not likely to disrupt the habitat of a viable local population.

Council indicates that the retention and management of these threatened species will be identified within an Area Plan and Vegetation Management Plan prepared for the site.

Five threatened fauna species were identified within the site. The report concludes that the PP is not likely to disturb the life cycle of these species such that a viable local population is likely to be placed at risk of exhibition.

Three EEC observed within the site are located within the proposed Zone 7(1) Conservation Primary Zone with a 20m buffer, and will be separated by a perimeter road.

SEPP 14 - Coastal Wetland No.888 and No.889 are located immediately to the west of the subject site. Council indicates that no physical works will be carried out on either wetland. Council has proposed insertion in Schedule 8 of LM LEP 2004 a requirement to ensure that a detailed Storm water Management Plan be prepared to ensure protection of the SEPP 14 Wetlands and other natural resources in the locality.

Acid Sulfate Soil

The Department of Land and Water Conservation's Acid Sulfate Soil Risk maps indicate that sections of the northern part of the site adjacent to Lake Macquarie within an Estuarine Sandplain has a high probability of having actual or potential acid sulfate soils within 1 metre of the existing surface.

Barker Harle prepared a report which examined the extent of the estuarine sandplain and associated acid sulfate soils including undertaking six random soil samples. The laboratory results indicate that three samples exceed the 'Action Criteria' for a medium textured soil for POCAS TSA. Consequently, Council indicates that at subdivision stage if any development were to occur in the estuarine sandplain in the northern part of the site, then an Acid Sulfate Soil Management Plan would be required.

Groundwater

Department of Environment, Climate Change and Water (DECCW) records indicate that there are 22 known bores on or within 1km of the site. Only 3 bores have information available. As part of the geotechnical report, bore holes were drilled. The PP notes that it is possible groundwater is present within the foreshore area of the site; however in other areas of the site, particularly in the southern part of the site, it is unlikely in these areas that groundwater is present close to the surface.

Flooding

Northrop Engineers undertook a storm water and flooding assessment. The report identified the potential of flooding from the site from Lake Macquarie as well as an unnamed tributary to Lake Macquarie which flows along the north-western boundary of the site. Further work will be required to ensure that appropriate flood planning levels are adopted as part of any future subdivision.

The only access/egress into the site is obtained from Government Road, however the report indicates the potential for the road to be inaccessible during major flood events and therefore will need to be further considered in the future subdivision stage.

Sea Level Rise has also been investigated, and Council has identified levels for the proposal which will need to be considered for any future development.

Geotechnical Assessment

Barker Harle prepared a Geotechnical Assessment Report. Barker Harle assumed that any residence built on the site would be single or double storey masonry or masonry veneer residence with sheet metal or tile roof. The report concluded that the site is suitable for a building on a slab on grade or strip footing system designed by a structural engineer, for no less than the minimum required for a class M site. Further assessment of building construction suitability can be undertaken as part of any future development assessment.

Council has noted that construction of a road across the drainage line in the central part of the site would be difficult and expensive, and as a result further investigations will be required as part of any future subdivision assessment.

Contamination

Council notes that there are no statutory notices issued for the site under the Contaminated Land Management Act. Soil samples were undertaken and the laboratory results revealed that none of the samples exceeded the relevant guideline levels for residential development.

Servicing Infrastructure

RPS Harper Somers O'Sullivan (HSO) prepared a servicing infrastructure assessment of the site and examined the availability and capacity of existing services in the area based on a 150-250 lot yield.

The PP notes that reticulated water can be provided to the proposal by extension of mains from the existing Hunter Water Corporation (HWC) water mains servicing residential areas, and there is capacity available in the existing water system for the proposed lot yield.

The PP indicates reticulated sewerage services can be provided to the proposed rezoning area by connecting sewer mains into existing HWC systems servicing adjacent areas. However, HWC has advised Council that there is only limited capacity available in the existing sewer system to service the proposal. Consequently, upgrades may be required to provide suitable services for the development.

Council has indicated that a Water Service Strategy and Sewer Servicing Strategy will need to be prepared.

Further consultation with Energy Australia and Telstra will be required at subdivision stage to upgrade system to meet the needs of the development.

Economic Impact Assessment

RPS Harper Somers O'Sullivan prepared an Economic Impact Assessment for the site. It was estimated that a development of 150 residential dwellings would create a total stimulus to the local economy from the project of \$47.8 million.

In terms of employment benefits, the economic impact assessment indicates that the construction of the subject site to the national economy is estimated at 2,032 Full Time Equivalent positions. The PP indicates the the development of Ramsgate Estate will have a positive effect on the economy.

Social Impact Assessment

RPS HSO prepared a Social Impact assessment. The proposed development will be supported by the Wyee, Morisset and surrounding area. Council has indicated in the PP that there is sufficient community and recreational facilities existing or proposed for the area. Public open space and bus routes will be examined as part of the subdivision stage.

Visual Impact

RPS HSO prepared a visual impact assessment including examination of vegetation on site, foreshore landscape and potential impact on the site from residential development. Council has indicated that a Landscape Management Plan should be provided prior to subdivision and development of any residential zones within the site.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 Month	Delegation :	DDG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Department of Primary Industries - Minerals and Petroleum Hunter Water Corporation Mine Subsidence Board NSW Rural Fire Service 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. :			

Amendment 50 - Lake Macquarie LEP 2004 - Ramsgate Estate, Wyee Point

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? **Yes**

If Yes, reasons : **The site has been identified in accordance with cl. 62 of LM LEP 2004 as an Urban Release Area. In addition, Council has received correspondence from the Roads and Traffic Authority indicating that the developer will need to enter into an agreement for contributions toward State road infrastructure. The site is mapped on the Draft Hunter Special Infrastructure Contributions map for the purpose of State Infrastructure Contributions.**

Documents

Document File Name	DocumentType Name	Is Public
Appendix1_Section62_Consultations.pdf	Determination Document	Yes
Appendix2_Geotechnical_and_Contamination.pdf	Study	Yes
Appendix3_Stormwater.pdf	Study	Yes
Appendix4_Archaeology_and_Heritage.pdf	Study	Yes
Appendix5_Ecology.pdf	Study	Yes
Appendix7_Traffic.pdf	Study	Yes
Appendix8_Services.pdf	Study	Yes
Appendix6_Bushfire.pdf	Study	Yes
Council	Determination Document	Yes
Report_Ramsgate_Estate_Planning_Proposal.pdf		
Visual.pdf	Study	Yes
Planning_Proposal_Ramsgate_Estate_Wyee_Point.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.3 Mining, Petroleum Production and Extractive Industries
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 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
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information : **It is recommended that:**

1. The Planning Proposal be supported.
2. Community consultation is required under section 56(2)(c) and 57 of the Environmental Planning & Assessment Act 1979 ('EP&A' Act) as follows:
 - (a) the Planning Proposal be made publicly available for 28 days;
 - (b) the relevant authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be publicly available

Amendment 50 - Lake Macquarie LEP 2004 - Ramsgate Estate, Wyee Point

along with planning proposals as identified in section 4.5 of a Guide to Preparing LEPs (Department of Planning 2009)

3. Consultation is required with the following public authorities under section 58(2)(d) of the EP&A Act:

- * NSW Department of Primary Industries (Minerals & Petroleum)
- * Mine Subsidence Board
- * NSW Rural Fire Service
- * Office of Environment & Heritage / Environment Protection Authority
- * Roads & Maritime Services
- * Hunter Water Corporation

4. The Director General (or delegate) agree with the following section 117 Direction inconsistencies - 2.3 Heritage Conservation, as appropriate conservation mechanisms are being incorporated into the LEP amendment; 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land and 6.3 Site Specific Provisions, as the inconsistencies are of minor significance; and 5.1 Implementation of Regional Strategies, as the planning proposal achieves the overall intent of the regional strategy and does not undermine the achievement of its vision, land use strategy, policies, outcomes or actions.

Consultation is required with the NSW Department of Primary Industries (Minerals and Petroleum), The Mine Subsidence Board, and NSW Rural Fire Service to determine consistency with section 117 Directions - 1.3 Mining, Petroleum Production & Extractive Industries; 4.2 Mine Subsidence and Unstable Land; and 4.4 Planning for Bushfire Protection respectively.

Further investigation and consultation with the Office of Environment and Heritage / Environment Protection Agency is required to ensure that mechanisms are incorporated to determine consistency with section 117 Direction - 2.1 Environment Protection Zones.

After public exhibition and the public hearing, further consultation with the Department of Planning & Infrastructure is to be undertaken to assess and determine consistency with section 117 direction 6.2 Reserving Land for Public Purposes.

5. A public hearing is not required to be held into the matter by any person or body under section 58(2)(e) of the EP&A Act. this does not discharge Council from any obligation it may otherwise have to conduct a public hearing.

6. The time frame for completing the LEP is 12 months from the date of the Gateway Determination.

Supporting Reasons :

Lake Macquarie City Council in coordination with the proponent has undertaken a comprehensive Local Environmental Study that has identified zones and land uses incorporating a mixture of residential, environmental living and conservation of environmentally sensitive land. Biodiversity and environmental offset matters will be examined as part of the rezoning process to ensure appropriate mechanisms are undertaken to balance the residential and environmental assets of the development.

Signature:



Printed Name:

Monica Gibson

Date:

27.1.2012

