

**City Strategy Committee Meeting
6 December 2010**

10STRAT044 Planning Proposal to Amend Lake Macquarie LEP 2004 - Ramsgate Estate Wyee Point

Council Ref: RZ/6/2005 - D01660976
Report By: Strategic Planner - Adam Ovenden

Précis:

On 12 March 2007, Council resolved to prepare an amendment to Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004) in order to rezone land at Wyee Point, to accommodate urban development and facilitate environmental conservation on land known as Ramsgate Estate.

A comprehensive Local Environmental Study (LES) has been prepared to inform the proposed land use zones for the subject site. The LES recommended that the site be rezoned from 5 Infrastructure, 6(1) Open Space, 7(1) Conservation (Primary), 7(3) Environmental (General), and 10 Investigation Zones to a mixture of 2(1) Residential, 7(1) Conservation (Primary), and 7(5) Environmental (Living) Zones. Consultation with relevant government agencies has occurred pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979).

In order to proceed, the draft Amendment must be converted to a Planning Proposal and submitted to the Department of Planning's 'Gateway' for determination. The 'Gateway' will advise of the appropriate exhibition periods, further consultation requirements, and time frames for the finalisation of the draft amendment.

Recommendation:

Council:

- A. Requests a Gateway Determination from the Department of Planning in relation to the Planning Proposal at Attachment 1.
- B. Resolves to place the Planning Proposal on exhibition, subject to the outcome of the Gateway Determination.
- C. Notifies stakeholders and affected landowners of the Gateway Determination and public exhibition period, if required.

Background:

Ramsgate Estate is a 37ha site located at the southern end of Lake Macquarie, with approximately 1.5km of foreshore to the Lake and a SEPP 14 Wetland along the north-western boundary. The residential area of Wyee Point adjoins the site to the east, with rural residential lands to the south.

The Ramsgate Estate paper subdivision was registered with the Lands Department in 1885 resulting in 608 allotments with an average size of 400m² and a network of 12 streets. The paper subdivision is without services such as formed roads, drainage and reticulated water and sewerage. After initial site clearing and some preliminary construction of unsealed roads, the development was aborted due to a dispute with the owner of the adjacent land over legal access. The adjacent land was subdivided in 1887 and restricted legal access to the Ramsgate site as the street network did not align with those on Ramsgate Estate.

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The ownership pattern of lots in the paper subdivision is highly fragmented. A private company (FTLR Pty Ltd) have acquired approximately 366 allotments in the subdivision. Council have also acquired approximately 145 lots, with the remaining 95 lots owned by 30 private landowners.

The LES and associated reports have been completely funded by FTLR Pty Ltd.

In 1987, Council indicated support for the development of the land with a site-specific clause inserted into Lake Macquarie Local Environmental Plan 1984. The clause permitted dwelling houses on lots on the proviso that water and sewerage services were available, and the minimum lot size was 800m². Water services were available at the time from the existing infrastructure in Wyee Point, and permission was granted from Wyong Council to treat wastewater at the Mannering Park Waste Water Treatment Plant. However, in 1987 the Department of Public Works and the Hunter Water Corporation included Ramsgate Estate in the Fringe Area Water Sewer Scheme. The scheme required the approval of adjoining landowners for the construction of the sewer rising main prior to connecting with the Dora Creek Waster Water Treatment Plant.

By the time LMLEP 2004 was being prepared, arrangements with adjoining landowners to allow construction of the rising main had not progressed. This, in conjunction with the increased awareness of the environmental attributes of the site, resulted in Council zoning the subject land to its current land use zonings. More recently, water and sewerage infrastructure has been constructed to serve Wyee Point. This infrastructure has sufficient capacity to cater for the urban development of the Estate.

On 12 March 2007, Council resolved to prepare a draft amendment to LMLEP 2004 (07ST007) in order to rezone land at Wyee Point. A detailed LES has been prepared for the subject land. The recommendations of the LES form the basis of this Planning Proposal.

Proposal:

It is proposed that Council:

- Supports the conversion of the draft LEP Amendment to a Planning Proposal under Part 3 of the EP&A Act 1979 (see Attachment 1);
- Seeks a Gateway Determination on the Planning Proposal from the DoP, pursuant to Section 56(2) of the EP&A Act 1979; and
- Places the Planning Proposal on public exhibition, although exhibition is subject to the outcome of the Gateway Determination.

The Planning Proposal (Attachment 1) proposes to amend LMLEP 2004 to change the current land use zones from 5 Infrastructure, 6(1) Open Space, 7(1) Conservation (Primary), 7(3) Environmental (General), and 10 Investigation Zones, to:

- Zone approximately 18.6 hectares of the site to 7(1) Conservation (Primary). This area includes all the Endangered Ecological Communities adjacent to the Lake, and a vegetation corridor stretching through the centre of the site linking with other environmentally significant land to the south.
- Zone approximately 10.2 hectares of land adjacent to the existing Wyee Point township is to 2(1) Residential. Whilst this land includes a significant number of hollow bearing trees, it is considered a natural extension of the existing Wyee Point township, and has merit from a neighbourhood planning point of view. The comprehensive LES indicated that the 2(1) Residential zoning was the preferred land use zone for this precinct.

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- Zone approximately 7.3 hectares of the site adjacent to the western boundary to 7(5) Environmental (Living). This zoning will facilitate lower density urban development on this portion of the site, whilst protecting suitable hollow bearing trees, and other environmentally significant flora.

As Council owns land within the paper subdivision, the Planning Proposal also seeks to reclassify 70 allotments from Community to Operational. The reclassification of these allotments will facilitate transfer of titles between Council and private landowners, or future development of the site for urban purposes. The allotments proposed to be reclassified are shown on map sheets 14 and 15 included in the Planning Proposal at Attachment 1. Any changes to Council's ownership of lots would be the subject of a separate report to Council.

Changes to draft Lake Macquarie LEP 2011, the new citywide LEP being prepared in accordance with Standard Instrument template, will be required as a result of the Planning Proposal. The anticipated changes are outlined in the Planning Proposal at Attachment 1.

Consultation:

The proposal has been in consultation with various Council Departments, including Community Planning, Asset Management, Development Assessment and Compliance, Sustainability and Property. Generally, all Council departments are supportive of the proposed amendment.

Council's Sustainability Department are supportive of the proposed 2(1) Residential zoning, and the protection of the Endangered Ecological Communities through the 7(1) Conservation (Primary) zoning. However, Council's Environmental Planner raised concerns with the proposed 7(5) Environmental (Living) zoning of the western precinct and the potential loss of vegetation within this precinct.

It is considered that any potential loss of vegetation in the 7(5) Environmental (living) zoned area can be minimised and managed appropriately at the subdivision stage. To assist this it is proposed that an Area Plan be required for the site to facilitate maximum retention of hollow bearing trees, and the identification of building envelopes in any subdivision application for the 7(5) Environmental (Living) zoned area. It is also important to note that any proposed development is required to comply with the Department of Environment, Climate Change, and Water's 'improve or maintain' principle.

Pursuant to the EP&A Act 1979, consultation has been undertaken with relevant State Government agencies, service authorities, and other relevant stakeholders. Council received submissions from nine agencies and stakeholders. The main issues arising from these submissions include:

Department of Environment, Climate Change, and Water (DECCW)

DECCW have indicated that whilst they support the development of parts of the site, the proposed offsets within the site boundaries (all areas zoned 7(1) Conservation (Primary)) will not be sufficient to meet the 'improve or maintain' biodiversity benchmark due to vegetation loss. Subsequently, the proponent is currently investigating sites within the locality for use as additional offsets. DECCW has requested that additional consultation occur after the 'Gateway' determination by the Department of Planning.

Hunter Water Corporation

The Hunter Water Corporation required a Servicing Strategy to be undertaken as part of the LES. The Servicing Strategy indicated that there is sufficient capacity within the

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network to support the development. It is anticipated that the Hunter Water Corporation will be further consulted following the 'Gateway' determination.

Koompahtoo Local Aboriginal Land Council (KLALC)

The KLALC required a detailed Aboriginal archaeological assessment to be prepared for the subject site. This study was undertaken in conjunction with the KLALC and other interested parties as part of the LES.

Department of Planning (Heritage Branch)

The Heritage Branch required a European Heritage assessment to be undertaken on the subject site. This assessment was undertaken as part of the LES, however no items of significance were discovered as part of this study.

Rural Fire Service (RFS)

The Rural Fire Service requested a Bushfire Threat Assessment be undertaken in accordance with the *Planning for Bushfire Protection 2006*. This assessment was undertaken as part of the LES. The RFS have indicated that additional consultation will be required as part of any development application on the site.

Roads and Traffic Authority (RTA)

The RTA 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. The RTA have indicated that they are satisfied that the proposed development will not have a direct impact on the State road network. However, the RTA may require a Planning Agreement for a monetary contribution towards the State roads, prior to approval of any future subdivision. Accordingly, the Planning Proposal identifies the site as an Urban Release Area under Clause 62 of LMLEP 2004 to ensure that such agreements are in place prior to subdivision consent being granted.

Ministry of Transport

The Ministry of Transport required a traffic study to be undertaken as part of the LES, including models for the impacts on the road network, the provision of bus services, and the integration into the existing township.

The traffic study undertaken as part of the LES. The results of the traffic study have indicated that the existing road network has sufficient capacity to cater for the urban development of the site. Furthermore, the LES has indicated that the future development of the site can be designed to accommodate bus services where appropriate.

Department of Primary Industries (DPI)

The Department of Primary Industries indicated that Centennial Coal (Mannering Colliery) holds a mining lease (CCL 721 and Authorisation 384) over the site. The DPI indicated that the Fassifern seam would be mined within the next five years. The DPI indicated that they do not object to the proposal in its current form, however would not support any future development that had the potential to sterilise the coal resource.

Mine Subsidence Board (MSB)

The subject site is within a proclaimed mine subsidence district. The MSB did not object to the proposal, however indicated that future development of the subject site will need to meet the MSB dwelling height and construction standards.

On 17 April 2007 landowners in the Ramsgate Estate were advised of Council's resolution to prepare an amendment to LMLEP 2004. FTLR have also maintained ongoing

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communication with the other landowners via newsletters. Subject to the 'Gateway' determination, consultation with the community will ensure the public has the opportunity to comment on the proposal. Any submissions from the community will be given consideration in preparing the final Planning Proposal.

Implications:

Policy Implications:

Lake Macquarie Local Environmental Plan 2004

The Planning Proposal will result in the land use zones for the site changing. The new zones will accommodate residential development, as well as the conservation of environmentally valuable land.

Lifestyle 2020 Strategy

The proposed Planning Proposal is consistent with the objectives of the Lifestyle 2020 Strategy.

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. 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. It is hoped that the additional households at Wyee Point will create the demand required to enable the general store to become a viable development proposition.

The Strategy identifies the need for the protection of land with high ecological values. Land on this site that has high ecological values will be conserved; however, offsets will also be required as some loss of biodiversity will be unavoidable during development of the site.

Council's Biodiversity Planning Policy and Guidelines for LEP Rezoning

The Planning Proposal is consistent with the objectives of Council's Biodiversity Planning Policy and Guidelines for LEP Rezoning. The relevant items have been addressed as follows:

Policy Item	Planning Response
<i>Objective:</i> Retain important natural ecosystems and biodiversity, and maintain landscape connectivity.	All Endangered Ecological Communities within the site will be conserved as part of this amendment. Loss of vegetation is expected as part of the development of the site. However, it is anticipated that biodiversity offsets will be provided both within the boundaries of the site, and on nearby land.
<i>Principles:</i> No removal of native vegetation or habitat that will result in complete loss of local populations of threatened species, or loss of endangered ecological communities.	All Endangered Ecological Communities (EEC) will be protected through conservation zones and a 20m buffer. It is anticipated that two small clumps of threatened species <i>Tetratheca Juncea</i> will

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Policy Item	Planning Response
	be protected through an appropriate management plan.
Maintain quality, condition, connectivity and extent of high quality threatened species habitat, and area of endangered ecological communities on the site.	All Endangered Ecological Communities will be protected through conservation zones, and a 20m buffer.
Accept loss of non-significant vegetation communities that are widespread within the LGA, provided that >70% native vegetation cover of each of these communities is retained in the whole LGA, as mapped on LMCC 2004 vegetation mapping.	Significant vegetation communities on the site will be protected through conservation zones.
Maintain existing landscape scale connectivity of native vegetation in corridors with suitable characteristics e.g. width, habitat quality, and area, by implementing adequate long-term security e.g. zoning, dedication to LMCC, covenant, or acquisition.	A vegetation corridor linking the EEC's and other significant vegetation to the south will be maintained through the centre of the site. Dedication of privately owned land may not be feasible in this instance, however zoning the land for conservation purposes will provide for long-term security.
Use of offsets (including protected areas or rehabilitation) may be considered where appropriate.	It is anticipated that the Department of Environment, Climate Change and Water will require both on site and off site offsets. Offsets will be secured as part of the amendment process.
Retention of native vegetation in good condition is preferable to rehabilitation of disturbed areas. Rehabilitation or enhancement must be on land in public ownership and fully funded by the developer.	Details of rehabilitation or enhancement will be addressed at the subdivision stage.

Lower Hunter Regional Strategy

The proposed rezoning of land is consistent with the Lower Hunter Regional Strategy. The site will assist in accommodating anticipated population growth in the region, contribute to the support of the nearby emerging major regional centre at Morisset, and the existing township of Wyee Point.

State Environmental Planning Policies (SEPPs)

The relevant SEPPs have been considered during the preparation of the LES for the subject site. It has been determined that the Planning Proposal is consistent with the relevant SEPPs, and no issues have been identified that would prevent the Planning Proposal being submitted to the 'Gateway' process for determination. Details of relevant SEPPs are contained within the Planning Proposal in Attachment 1

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Section 117 Ministerial Directions

The relevant Ministerial Directions have been considered in preparing the Planning Proposal. The draft amendment is consistent with the applicable Ministerial Directions. Details of relevant s117 Ministerial Directions are contained within the Planning Proposal in Attachment 1.

Environmental Implications:

The impacts of the proposed draft amendment on the environmental attributes of the site were considered as part of the comprehensive LES. The LES recommended that the Endangered Ecological Communities (EECs) be protected by the use of a conservation zone for part of site. Additionally, a vegetation corridor through the centre of the site is proposed to be zoned for conservation.

Whilst some clearing has occurred on the site, the majority of the land is vegetated. It is likely that the proposal will lead to loss of vegetation within the proposed 2(1) Residential, and parts of the 7(5) Environmental (Living) zoned areas of the site. DECCW have indicated that the proposed offsets identified on site are unlikely to meet the 'improve and maintain' biodiversity principle. As such, the proponent is currently investigating sites within the locality to use as additional offsets. DECCW has requested that additional consultation occur after the 'Gateway' determination by the Department of Planning. It may be desirable that Council seek Bio-Certification of the Planning Proposal if off-site offsets are required by DECCW.

Several clumps of threatened species *Tetratheca Juncea* were identified on the subject site during the flora and fauna assessment. The majority of these clumps are located within the 7(1) Conservation (Primary) zoned area. Two small clumps are located within the 7(5) Environmental (Living) area adjacent to the environmental corridor through the centre of the site. It is considered appropriate that these two clumps be protected and included in any Area Plan and environmental management plan prepared for the site.

Asset Protection Zones (APZ) will be required within both the residential, and the environmental living zones, and will not be permitted to encroach on conservation land. The exact APZ requirements will be determined as part of future development applications.

The majority of the foreshore has been identified as a Potential Archaeological Deposit due to middens being found along the foreshore. This area will be retained within the 7(1) Conservation (Primary) Zone. In addition, one midden site was identified within the proposed 2(1) Residential Zone area. It is intended that additional consultation be undertaken in regards to these items with the stakeholders after the 'Gateway' determination.

Social Implications:

The current population at Wyee Point is estimated to be 425 people. There has been an increase in the local population in the last few years as a consequence of new subdivisions. There is currently minimal community infrastructure at Wyee Point for residents, although a Plan of Management is on exhibition for the Wyee Point parkland, and \$2,000,000.00 in funding is available to progress stage one of the development of the parkland.

Development of Ramsgate Estate will increase the population to a level where a local shopping centre may become viable. Land located at the junction of Government Road and Mulwala Drive is currently zoned 3(1) Urban Centre (Core) and allows for a mix of

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commercial and retail uses. Ramsgate Estate is located within 800m of this commercial zone.

Social impacts will be considered further through the remaining stages of the LEP amendment process.

Financial Implications:

FTLR Pty Ltd has agreed to fund the LES required to enable the rezoning process to continue. As Council is also a significant landowner in Ramsgate Estate, previous resolutions of Council have proposed that staff resources required to assess the rezoning will be provided free of charge. It is recommended that this arrangement be continued.

Risk and Insurance Implications:

The preparation of a Planning Proposal to amend LMLEP 2004 is a regular Council activity governed by the provisions of the EP&A Act 1979. The level of risk attached to this activity will be minimised through following the process as established by the EP&A Act 1979, and *Environmental Planning and Assessment Regulation 2000*.

Options:

1. Council resolves to forward the Planning Proposal (Attachment 1) to the Department of Planning for determination under the 'Gateway' process. This is the recommended option.
2. Council resolves to amend the Planning Proposal prior to its submission to the Department of Planning for determination under the 'Gateway' process. .
3. Council resolves to not forward the Planning Proposal to the Department of Planning, cease the preparation of the draft amendment, and inform the proponent and relevant Government agencies of its decision. This is not recommended as the LES prepared for the land indicates the land is suitable and capable of accommodating urban development. Furthermore, this will continue the fragmented ownership of high value ecological land.

Conclusion:

A comprehensive LES has been prepared for the site to determine the suitable land use zones for the site. Consultation with Government agencies and other relevant stakeholders has been undertaken. It is recommended that Council resolve to forward the Planning Proposal to the 'Gateway' for determination to enable the progression of the amendment to LMLEP 2004 future urban development of parts of Ramsgate Estate.

Manager - Integrated Planning - Sharon Pope

Attachments:

1. Planning Proposal - Ramsgate Estate Wyee Point D01957751