

Draft Lake Macquarie LEP 2004 (Amendment No 81)

Proposal Title : **Draft Lake Macquarie LEP 2004 (Amendment No 81)**

Proposal Summary : **To rezone a small parcel of land adjoining the existing Morisset urban area from 10 Investigation zone to 2(1) Residential zone.**

PP Number : **PP_2013_LAKEM_009_00**

Dop File No : **13/10416**

Proposal Details

Date Planning Proposal Received : **14-Jun-2013**

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 : **Dora**

Suburb : **Morisset**

City : **Lake Macquarie**

Postcode : **2264**

Land Parcel :

DoP Planning Officer Contact Details

Contact Name : **Brian Murphy**

Contact Number : **0249294453**

Contact Email : **brian.murphy@planning.nsw.gov.au**

RPA Contact Details

Contact Name : **Leah Horsnell**

Contact Number : **0249210492**

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

DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre :

Release Area Name :

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) :Type of Release (eg
Residential /
Employment land) :**Residential**

No. of Lots : 2

No. of Dwellings : 2
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

Have there been No
meetings or
communications with
registered lobbyists? :

If Yes, comment :

Supporting notesInternal Supporting
Notes :**Council advises it will await the Department's advice on the use of plan-making delegations. The planning proposal is considered to have minor impacts. It is therefore recommended Council be given plan-making delegations.**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 adequately explains the intent of the planning proposal to rezone a small area of land to enable a low density residential use.****Explanation of provisions provided - s55(2)(b)**

Is an explanation of provisions provided? Yes

Comment : **The explanation of provisions indicates that the planning proposal is intended to be delivered through an amendment to Lake Macquarie LEP 2004.****Draft Lake Macquarie LEP 2013 has been prepared and publicly exhibited. Should LEP 2013 be made prior to this planning proposal then this proposal will be finalised as an amendment to LEP 2013 with land use, lot size, and height of building provisions consistent with those of LEP 2013. This is outlined within the planning proposal.****Justification - s55 (2)(c)**

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones**1.2 Rural Zones****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
6.1 Approval and Referral Requirements
6.2 Reserving Land for Public Purposes
6.3 Site Specific Provisions

Is the Director General's agreement required? **No**

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 (Building Sustainability Index: BASIX) 2004
SEPP (Infrastructure) 2007

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

Requirements relating to s117 Direction - 1.3 - Mining Petroleum Production and Extractive Industries, 2.1 Environmental Protection Zones, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.2 Mine Subsidence and Unstable Land and SEPP 55 - Remediation of Land are discussed under the Assessment tab of this report.

Have inconsistencies with items a), b) and d) being adequately justified? **N/A**

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 :

Council intends to exhibit the proposal consistent with the Gateway requirement and to consult various Agencies, including Mine Subsidence Board, Rural Fire Service and Roads and Maritime Services.

A 14 day exhibition is recommended because of the relatively minor nature of the planning proposal.

Additional Director General's requirements

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

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **No**

If No, comment :

Council has prepared a zoning map for amendment to LEP 2004. Depending on timing this draft LEP may be finalised as an amendment to a new LEP 2013. Zoning maps should therefore be prepared for both an amendment to LEP 2004 and draft LEP 2013.

Proposal Assessment

Principal LEP:

Due Date : **December 2013**

Comments in
relation to Principal
LEP :

The draft Lake Macquarie LEP 2013 was exhibited from 21 November until 21 December 2012. Council have submitted it to the Department under Section 68 and it is expected to be completed by later in 2013.

Assessment Criteria

Need for planning
proposal :

The site is located in close proximity to Morisset Town Centre and public transport routes. The proposal will enable a land use change from the former Energy Australia Morisset Crew Depot to a low density residential use, compatible with adjoining predominantly single residential dwelling uses.

Consistency with
strategic planning
framework :

State Environmental Planning Policies

The proposal is consistent with relevant State Environmental Planning Policies.

SEPP 55 - Remediation of Land. The subject site has previously been used for depot purposes by a public electricity authority. Council advises that a combined Phase 1 and 2 Environmental Site Assessment was prepared for the site back in 2008. Council's Waste and Environmental Rangers (WER) department have reviewed the studies and advise that the primary contaminants of concern were below the relevant thresholds and there is no groundwater contamination, acid sulphate or asbestos issues for the site. The site is considered suitable for the intended 2(1) Residential Zone.

Local Strategy

Council has assessed the proposal against the strategic directions contained within its Lifestyle 2030 Strategy. The proposal accords with and is considered to be consistent with the strategic directions. The site is part of the Morisset emerging major regional centre and is identified as part of a Growth Expansion Corridor within the Urban Structure Map.

The site is also identified in the Morisset Structure Plan as a potential urban release area, subject to the resolution of biodiversity issues.

Lower Hunter Regional Strategy

The site is located within the existing Morisset urban area identified by the Regional Strategy. The proposal accords with the key Strategy objective to increase housing provided in existing urban areas.

S117 Directions

The proposal is considered consistent or able to be consistent following consultation with all relevant s117 Directions. Directions of most relevance to the proposal include:

1.3 - Mining Petroleum Production and Extractive Industries. Council's contention that it is unlikely that any extraction of mineral resources will occur on, or under the site to warrant the area to be excluded from development is concurred with. The subject land adjoins and existing urban area in close proximity to the Morisset town centre. Council intends to consult with the Director-General of the Department of Primary Industries - Minerals and Petroleum post - Gateway determination. Consistency with this direction will be clarified following this consultation.

2.1 - Environmental Protection Zones. The proposal does not affect land currently zoned for conservation purposes. As discussed below Council considers it unlikely that the proposal will significantly impact the Squirrel Glider movement corridor and connectivity in the locality. Therefore the proposal is considered to be consistent with this direction.

3.1 - Residential Zones. As Council notes the subject land is located in close proximity to public transport routes and the Morisset town centre. Rezoning the land for residential purposes will make more efficient use of existing infrastructure and facilities and help to broaden the choice of housing types to provide for existing and future housing needs.

3.4 - Integrating Land Use and Transport. The site of the proposed residential land use is located in close proximity to existing road and public transport facilities being within 800m of the Morisset town centre.

4.2 - Mine Subsidence and Unstable Land. The subject land is located within the West Lake Mine Subsidence District. Council intends to consult the Mine Subsidence Board post Gateway.

4.4. - Planning for Bushfire Protection. The subject land is identified as bushfire prone and therefore consultation with the NSW Rural Fire Service prior to exhibition is required. Consistency with this direction will be clarified following this consultation.

Environmental social
economic impacts :

The site is not identified in Council's Lifestyle 2030 Green System map as having any significant environmental features. Council also advises that the subject land is small in size (1568 sq metres in total) and the habitat present on the site is heavily disturbed open forest.

Nevertheless a Squirrel Glider review undertaken in 2008 identified the remnant site vegetation as forming part of a movement corridor for Squirrel Gliders. In considering this issue Council explored, in detail, three potential options to progress the planning proposal.

Option 1 is to include a site specific clause in the draft LEP requiring the consent authority to consider potential adverse impacts of any proposed development on habitat movement corridors.

Option 2 is to rezone the land part 2(1) Residential and part 7(2) Conservation (Secondary).

Option 3 is to rezone the whole site to 2(1)Residential Zone. Biodiversity values on the site would be addressed at Development Application stage through the insertion of a Condition in Council's database (Pathway). The condition will require any future site DA to be referred to Council's Environmental Planner to assess the extent of vegetation to be retained on the eastern portion of the site.

Option 3 is Council's preferred option and the subject of this report.

Council have considered the small size of the site and the disturbed nature of the remnant site vegetation. The habitat corridor on the adjoining land together with the retention of mature site trees on the subject site will provide adequate protection for the preservation of the Squirrel Glider corridor in the locality. The preferred option will resolve the current 10 Investigation Zone and provide clear planning intent for the land to be used for residential purposes.

Option 1 would be inconsistent with s117 Direction 6.3 - Site Specific Provisions which seeks to discourage unnecessarily restrictive site specific planning controls.

Having regard to Council's assessment of environmental impacts and the biodiversity values of the site, Council's preferred option 3 is supported.

Conclusion

As noted previously, the planning proposal will provide for infill residential development in proximity to existing urban services and facilities. It is therefore considered that the proposal will on balance have positive environmental, social and economic impacts and that there is an overall public benefit in it proceeding.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	14 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2) (d) :	NSW Department of Primary Industries - Minerals and Petroleum Mine Subsidence Board NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

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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
Dora Street Morisset Cover Letter.pdf	Proposal Covering Letter	Yes
Dora Street Morisset Planning Proposal.pdf	Proposal	Yes
Dora Street Morisset Council Report.pdf	Proposal Covering Letter	Yes

Planning Team Recommendation

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

- S.117 directions:
- 1.1 Business and Industrial Zones
 - 1.2 Rural Zones
 - 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
 - 6.1 Approval and Referral Requirements
 - 6.2 Reserving Land for Public Purposes
 - 6.3 Site Specific Provisions

Additional Information : **The Planning Proposal should proceed with conditions:**

1. Council be advised that the Department supports Council's preferred Option 3 for progressing the planning proposal and to minimise any potential future impacts on the Squirrel Glider habitat corridor through subsequent development assessment.
2. Council be advised that draft zoning maps (consistent with the Department's technical

mapping requirements) need to be prepared specific to the proposed site rezoning, prior to the proposal being placed on public exhibition. Zoning map sets should be prepared for amendments to both LEP 2004 and draft LEP 2013.

3. The planning proposal should be finalised as an LEP within 9 months. A 9 month time-frame is recommended because of the relative minor nature of the planning proposal.

4. A 14 day Community consultation exhibition period is recommended because of the relative minor nature of the planning proposal. Consultation with relevant State authorities and agencies listed below should take place concurrently.

- Mine Subsidence Board.
- Roads and Maritime Services.
- Rural Fire Service.
- Department of Primary Industries - Minerals and Petroleum.

5. Council prepare a project plan and be given plan-making delegations.

Supporting Reasons :

1. The site is located within the existing Morisset urban area identified by the Regional Strategy. The proposal accords with the key Strategy objective to increase housing provided in existing urban areas.

2. The proposal will enable a land use change from a redundant Energy Australia Crew Depot to a low density residential use, compatible with the surrounding predominantly single residential dwelling use.

3. The proposal is consistent with Council's Lifestyle 2030 Strategy, is within Morisset Growth Expansion Corridor and also identified in the Morisset Structure Plan as a potential urban release area, subject to the resolution of biodiversity issues.

4. The proposal will provide for infill residential development in proximity to existing urban services and facilities. Any potential environmental impacts can be adequately addressed at development application stage. It is therefore considered that the proposal will on balance have positive environmental, social and economic impacts and that there is an overall public benefit in it proceeding.

Signature:



Printed Name:

KO'FLAHERTY

Date:

28/6/13