

Planning Services

Gateway Determination Report

LGA	Lake Macquarie
RPA	Lake Macquarie City Council
NAME	Charlestown Acquisition Land Review (East)
NUMBER	PP_LAKEM_008_00
LEP TO BE AMENDED	Lake Macquarie Local Environmental Plan 2014
ADDRESS	Various
DESCRIPTION	Various
RECEIVED	28 November 2017 adequate 19 January 2018
FILE NO.	OBJ17/13614
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required OR a political donation disclosure statement has been provided
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal OR include details of meetings or communications with registered lobbyists.

INTRODUCTION

Description of Planning Proposal

The planning proposal proposes relates to 14 sites currently identified for acquisition by Council, will remove the acquisition layer from all of these sites and, in relation to five sites amend the planning controls that apply to them including zoning.

Site Description

The 14 separate sites are located in the eastern part of the Lake Macquarie LGA with both private and agency land ownership. The location of the sites is depicted in Figure 1. Aerial photos and zoning maps included as part of the Planning Proposal identify the surrounded land uses and linkages to existing vegetation and conservation lands. Council's description provides further information on land characteristics and constraints.

Attachment A provides a summary of the sites, their ownership, site description proposed changes and an assessment of their consistency or otherwise with relevant s117 directions.

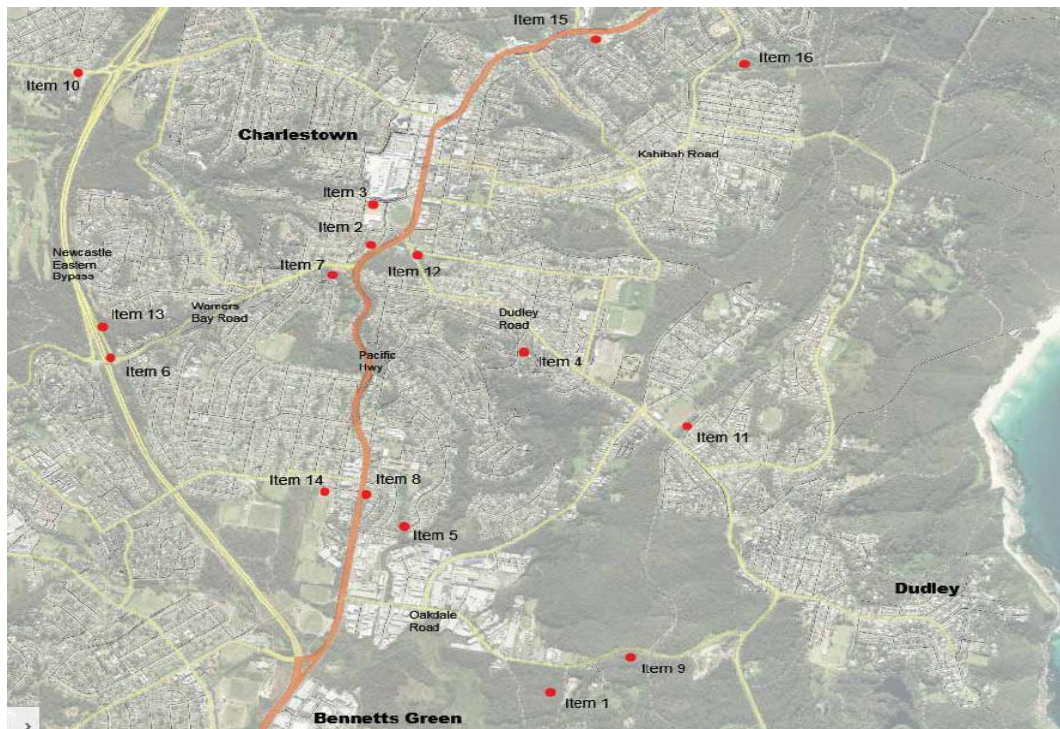


Figure 1: Site Location

Summary of Recommendation

The planning proposal seeks to remove 14 sites identified for acquisition by Council to reflect that five sites have already been acquired by the responsible agency and that for the remaining sites, Councils recreational needs assessment has identified that there is no longer any need to acquire the land. Five sites are being rezoned to reflect existing land uses with associated changes to development standards.

The proposal is recommended to proceed conditional upon consultation, including targeted consultation with land owners and relevant agencies.

PROPOSAL

Objectives or Intended Outcomes

The objective of the planning proposal is to remove 14 sites identified for acquisition by Council and rezone and make changes to development standards for five of these sites to reflect land capability and adjacent zones.

The proposal clearly explains the objectives and proposed changes for each site.

Explanation of Provisions

The Proposal will make various mapping changes to the LEP, being the land reservation acquisition maps for the nine sites and zoning, lot size, height of buildings and land reservation acquisition maps for the remaining five sites. The Proposal will not make any changes to the written LEP document.

The Planning Proposal summarises the proposed changes in tabular form, are clear and do not require amendment prior to community consultation.

Mapping

Aerial photos and zoning maps are included as part of the Planning Proposal. The maps to be amended under this proposal include:

- Land reservation acquisition map
- Land use zone map
- Height of Buildings map
- Lot size map

NEED FOR THE PLANNING PROPOSAL

The Planning Proposal reflects the outcomes of the 'Charlestown Land Acquisition Review Background Report – Eastern Part (April 2017) and for those sites to be rezoned, reflects their land constraints and surrounding uses. A planning proposal is the only mechanism available to remove the sites from acquisition and rezone land.

STRATEGIC ASSESSMENT

Regional / District

The proposal is consistent with Direction 14 of the Hunter Regional Plan in relation to the protecting and connecting natural areas, specifically action 14.4 of the Implementation plan:

“Protect biodiversity by maintaining and, where possible, enhancing the existing protection of high environmental value areas; implementing appropriate measures to conserve validated high environmental value areas; developing local strategies to avoid and minimise the impacts of development on areas of high environmental value and biodiversity corridors; and identifying offsets or other mitigation measures for unavoidable impacts.”

The proposal is consistent with and assists in implementing the Draft Greater Newcastle Metropolitan Plan which identifies three strategies to achieve the outcome of “Enhance environment, amenity and resilience for quality of life”, being:

- 2.3 – Enhance the Blue and Green Grid and the urban tree canopy;
- 2.4 – Protect rural amenity outside urban areas; and
- 2.5 – Improve resilience to natural hazards and climate change.

The proposal is also consistent with the Lower Hunter Regional Conservation Plan as it increases the level of protection for vegetation of conservation significance.

Local

The proposal is consistent with Council's Lifestyle 2030 Strategy and specific outcomes within the strategy. Council has provided an assessment against the relevant Directions and outcomes of the local strategy 'Lifestyle 2030', being:

A city responsive to the environment seeks to ensure biodiversity connectivity and conservation areas are identified, protected and enhanced with the major

elements shown schematically on the Green Systems Corridor Maps and the Urban Structure Maps.

A well designed adaptable and liveable city.

Section 117(2) Ministerial Directions

Nine of the fourteen sites will have an acquisition layer removed and are consistent with all relevant s117 directions. The following assessment has been made for the remaining five sites (sites 10, 11, 12, 13 and 14);

Section 117 Direction 3.1 (Residential zones)

Site 10 – 27 Tiral Street Charlestown.

Proposal to rezone the site from R3 Medium density residential to B4 Mixed use and is considered INCONSISTENT with this Direction as it does not broaden the choice of building types and locations available in the housing market. The land in question is an irregular shape of less than 100 sq/m and directly adjoins the B4 zone land in the same ownership.

RECOMMENDATION: The Secretary can be satisfied that the inconsistency is of minor significance.

Section 117 Direction 4.2 (Mine Subsidence and Unstable Land)

The following sites are potentially inconsistent with this Direction as no consultation with Subsidence Advisory NSW has occurred. This consultation will be required as a condition of the Gateway determination.

Site 10 – 27 Tiral Street, Charlestown.

Site 12 - Land near Pacific Highway, Gateshead.

Site 13 - Land near Pacific Highway, Highfields

Site 14 – 58 to 78 Kahibah Road, Highfields

Section 117 Direction 4.4 (Planning for Bushfire Protection)

The following sites are potentially inconsistent with this Direction as no consultation with NSW Rural Fire Service has occurred. This consultation will be required as a condition of the Gateway determination.

Site 10 – 27 Tiral Street, Charlestown.

Site 11 – 76 Crescent Road, Charlestown.

Site 12 - Land near Pacific Highway, Gateshead.

Site 13 - Land near Pacific Highway, Highfields

Site 14 – 58 to 78 Kahibah Road, Highfields

Section 117 Direction 6.2 (Reserving land for public purposes)

The following sites are currently zoned RE1 Public Recreation and the proposal seeks to amend their zoning to a variety of rural, environmental and residential zones.

Site 11 – 76 Crescent Road, Charlestown.

Site 12 - Land near Pacific Highway, Gateshead.

Site 13 - Land near Pacific Highway, Highfields

Site 14 – 58 to 78 Kahibah Road, Highfields

Due to the extent of consultation required it is recommended that further information be obtained prior to the inconsistency of otherwise with this direction being determined. The Gateway determination and letter to Council include this requirement.

State Environmental Planning Policies

The proposal is considered inconsistent with SEPP 21 (Caravan Parks) and SEPP 36 (Manufactured Home Estates) for the following sites as it rezones land from a public recreation zone to an Environmental conservation or R2 Low density residential or RU6 Transition zone which does not permit Caravan Parks or Manufactured Home Estates.

Site 11 – 76 Crescent Road, Charlestown.
Site 12 - Land near Pacific Highway, Gateshead.
Site 13 - Land near Pacific Highway, Highfields
Site 14 – 58 to 78 Kahibah Road, Highfields

All of these sites are small in size, irregular shapes and are not suitable for Caravan Parks or Manufactured Home Estates, the inconsistency is considered to be minor and justified.

The proposal is consistent with all other the relevant SEPP's.

Other State Policy

The Proposal is considered consistent as outlined in the assessment against the SEPP's and 117 Directions.

The proposal will have minimal impact on the supply and delivery of open space and other public infrastructure lands in the LGA.

The Department's 2009 LEP Practice Note (PN 09-002) on Environmental Protection Zones provides details on the characteristics of Environmental Conservation land and recommendations regarding the selection of the appropriate zoning:

“E2 Environmental Conservation This zone is for areas with high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. The zone provides the highest level of protection, management and restoration for such lands whilst allowing uses compatible with those values.

It is anticipated that many councils will generally have limited areas displaying the characteristics suitable for the application of the E2 zone. Areas where a broader range of uses is required (whilst retaining environmental protection) may be more appropriately zoned E3 Environmental Management.”

Council has provided advice regarding the environmental value of the land however at sites 11 and 14 the proposed zoning does not reflect adjacent zones and further information is required to justify the use of the E2 zone on isolated parcels of land.

SITE SPECIFIC ASSESSMENT

Social

Council's recreational needs assessment has indemnified that the sites are no longer required for acquisition for public recreation purposes.

Environmental

There are no anticipated environmental impacts as a result of this proposal. Council report that the proposal will have a positive impact in relation to sites 11, 12 & 14 being rezoned from RE1 to E2 as it offers greater conservation protection.

Economic

The proposal will reduce the Council financial obligations to acquire additional land for public purposes.

CONSULTATION

Community

Council considers the proposal to be low impact, requiring a 14 day exhibition. However, the Department's consideration is that targeted consultation is required and the proposal will require a 28 day exhibition period. Targeted consultation should be undertaken with affected land owners. Exhibition of the proposal should be accompanied by the supporting Recreation study

Agencies

Council has not proposed any further agency consultation. The report identifies consultation with Subsidence Advisory NSW, OEH and NSW Rural Service to comply with relevant 117 Directions.

TIMEFRAME

Council has suggested a nine month timeframe for completion of the proposal. The report recommends that the timeframe for completing the LEP be 12 months to allow additional time for amendments to be made to the proposal, agency consultation and consideration of submissions given the number of sites involved.

DELEGATION

Council has requested the use of plan making delegations and the report recommends that they be issued with delegations.

CONCLUSION

The planning proposal is supported to proceed with conditions as it will remove an unnecessary financial obligation from Council and rezone unrequired recreation zoned land to a more appropriate zone.

RECOMMENDATION

It is recommended that the delegate of the Secretary:

1. Agree to inconsistency with Section 117 Direction 3.1 Residential zones is of minor significance due to the small size of the site; and
2. Note that the consistency with Section 117 Directions 4.2 Mine subsidence and unstable land, 4.4 Planning for bushfire protection and 6.2 Reserving Land for Public Purposes are unresolved and will require justification.

It is recommended that the delegate of the Minister for Planning, determine that the planning proposal should proceed subject to the following conditions:

1. Update the Planning Proposal to include:
 - (a) Replace reference to 16 sites throughout the PP to 14 sites (for example Locality map page 23);
 - (b) For items 11, 12 and 14 – consideration of the appropriateness of this site for E2 zone considering:
 - i. the Department's 2009 LEP Practice Note (PN 09-002) on Environmental Protection Zones;
 - ii. the size of the proposed zone;
 - iii. the fragmentation and lot pattern;
 - iv. the topography and likelihood of development; and
 - v. the isolated location in relation to other E2 or E1 zoned land and other options for protection of the native vegetation.
2. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**;
 - (b) consultation should include specific notification of affected land owners; and
 - (c) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Section 5.5.2 of *A guide to preparing local environmental plans* (Department of Planning and Environment 2016).
3. Consultation is required with the following public authorities under section 56(2)(d) of the Act to comply with the requirements of relevant Section 117 Directions:
 - Subsidence advisory NSW (Direction 4.2 - Mine Subsidence and Unstable Land) for sites 10, 12, 13 and 14.
 - NSW Rural Fire Service (Direction 4.4 - Planning for Bushfire Protection) for sites 10, 11, 12, 13 and 14.

In addition, consultation with the Office of Environment and Heritage is required for Items 11 and 14 in relation to the site appropriateness for a E2 Environmental Conservation zone given its attributes and urban context.

4. Council will still need to obtain the agreement of the Department's Secretary to comply with the requirements of relevant Section 117 Directions 6.2 Reserving Land for Public Purposes and the reduction of land for public purposes. Council should ensure this occurs after Council has considered any submissions received from community consultation.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
6. The timeframe for completing the LEP is to be **12 months** following the date of the Gateway determination.



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