

2016 Housekeeping LEP - Reclassification from Community Land to Operational Land

Proposal Title : **2016 Housekeeping LEP - Reclassification from Community Land to Operational Land**

Proposal Summary : **The PP aims to reclassify ten sites from Community Land to Operational Land. One of the sites is also proposed to be rezoned. This will address a number of administrative anomalies and allow Council to sell land surplus to its needs.**

PP Number : **PP_2017_LAKEM_001_00** Dop File No : **16/15910**

Proposal Details

Date Planning Proposal Received : **10-Jan-2017** LGA covered : **Lake Macquarie**

Region : **Hunter** RPA : **Lake Macquarie City Council**

State Electorate : **LAKE MACQUARIE** Section of the Act : **55 - Planning Proposal**

LEP Type : **Housekeeping**

Location Details

Street :	1A Lawson Road		
Suburb :	Macquarie Hills	City :	Lake Macquarie
Land Parcel :	Part lot 42 DP 1132840		Postcode : 2285
Street :	11B Charles Street		
Suburb :	Edgeworth	City :	Lake Macquarie
Land Parcel :	Lots 17 & 18 Sec 3 DP 2149		Postcode : 2285
Street :	163C & 193C Dudley Road		
Suburb :	Whitebridge	City :	Lake Macquarie
Land Parcel :	Lot 2 DP 506536 & Lot 1 DP 372638		Postcode : 2290
Street :	28 C Thomas Street		
Suburb :	Barnsley	City :	Lake Macquarie
Land Parcel :	Lots 25 & 26 Sec H DP 631		Postcode : 2278
Street :	11A Charles Street		
Suburb :	Edgeworth	City :	Lake Macquarie
Land Parcel :	Lot 16 Sec 3 DP 2149		Postcode : 2285
Street :	142 Main Road		
Suburb :	Speers Point	City :	Lake Macquarie
Land Parcel :	Lot 13 Sec B DP 4063		Postcode : 2284
Street :	26 High Street		
Suburb :	Toronto	City :	Lake Macquarie
Land Parcel :	Lot 2 Sec 17 DP 1097		Postcode : 2283

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Street : **725 Main Road**
Suburb : **Edgeworth** City : **Lake Macquarie** Postcode : **2285**
Land Parcel : **Lot 1 DP 717715**
Street : **0 Pacific Highway**
Suburb : **Pinny Beach** City : **Lake Macquarie** Postcode : **2281**
Land Parcel : **Loy 8 DP 791995**
Street : **59A Pacific Highway**
Suburb : **Charlestown** City : **Lake Macquarie** Postcode : **2290**
Land Parcel : **Lot 1011 DP 1140442**

DoP Planning Officer Contact Details

Contact Name : **Amy Blakely**
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RPA Contact Details

Contact Name : **Joanne Marshall**
Contact Number : **0249210585**
Contact Email : **jmarshall@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 :	Consistent with Strategy :
MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings (where relevant) : 0
Gross Floor Area : 0	No of Jobs Created : 0

The NSW Government **Yes**
Lobbyists Code of
Conduct has been
complied with :
If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting **All sites are Council owned.**
Notes :

External Supporting
Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **Items 1-4 will reclassify land affected by operational roads, so the land can be dedicated appropriately as a road.**

Items 5-9 will reclassify minor sites which should be classified operational.

Item 10 will be reclassified to Operational Land, rezoned from RE1 Public Recreation to R2 Low Density Residential, and have an amended minimum lot size to reflect the surrounding land.

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

Is an explanation of provisions provided? **Yes**

Comment : **PP clearly sets out the provisions and changes proposed for each of the 10 separate sites in the proposal.**

A number of 'interests' will be required to be discharged. As such, the draft LEP will be required to go to the Executive Counsel to be approved by the Governor.

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**
- 2.1 Environment Protection Zones**
- 3.1 Residential Zones**
- 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**
- 5.10 Implementation of Regional Plans**

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

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 19—Bushland in Urban Areas
SEPP No 55—Remediation of Land

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

Rezoning of Council Owned Land Guidelines.

The Hunter Regional Plan 2036 was released on 14 October 2016. Consequently, section 117 Direction 5.10 Implementation of Regional Plans applies to the proposal. The planning proposal was completed prior to the January 2017 changes to the 117 Directions, and therefore requires to be updated to provide justification against Direction 5.10. Given the Planning Proposal was submitted prior to these changes, Direction 5.1 should also be considered.

It is considered that the proposal is consistent with the vision, land use strategy, goals, directions and actions of the Hunter Regional Plan 2036 and the Lower Hunter Regional Strategy and is therefore consistent with the Section 117 Directions.

Council should update the planning proposal to consider S117 Direction 5.10 Implementation of Regional Plans.

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Discussed within the Strategic Framework section.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **Mapping outlines the proposal and proposed changes.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **It is considered that a 28 day exhibition is appropriate for this PP as it involves land owned by Council being reclassified/rezoned for an increased development potential.**

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? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Lake Macquarie Principal LEP commenced 10.10.2014.**

Assessment Criteria

Need for planning proposal :

The PP will rectify a number of minor administrative matters that will reflect the lands current or intended use.

Items 1-4 are all affected by existing operational roads. Under the Local Government Act 1993 land is required to be classified as Operational before it can be dedicated as a road.

Item 5 (Edgeworth) is a 303sqm cleared residue lot from a road dedication. Council's

intention was always to sell the land, however it was not listed as Operational in 1993 when the current Local Government Act came into affect, meaning the land was classified as Community Land by default. Council intend to sell the block of residential land so it can be developed in line with the neighbouring subdivision pattern.

Item 6 (Speers Point) is a 809sqm parcel south of Council's Administration Building. An occupying building has been recently demolished. Council currently owns a lot to the north and two to the south, all of which is classified is Operational. The subject lot is required to be classified as Operational to allow extensions to the Administration Building.

Item 7 (Toronto) was purchased by Council as it adjoins a Council depot. It is currently leased to a neighbouring owner. Council intend to relocate the depot and sell all 3 parcels it owns in this locality. This site requires to be reclassified before it can be sold.

Item 8 (Edgeworth) This 569sqm lot was part of a larger parcel acquired by Council in 1984. Some of the land was required for road dedication, some for a public reserve and two lots were proposed to be sold. The other lot proposed to be sold is classified Operational, yet the subject lot was inappropriate classified as Community Land, and is required to be reclassified before it can be sold.

Item 9 (Pinny Beach) is a small (153sqm) sliver of land between the decommissioned Swansea Quarry and the Pacific Highway. Access to the Quarry was obtained over this land. Council has concluded the lot was created when RMS acquired land for the Pacific Highway upgrade. While the future of the Swansea Quarry land is still being determined, having the access land appropriately classified as Operational will increase future development options.

Item 10 (Charlestown) was originally a Crown Reserve containing a Public Hall in 1947. Part of the land was dedicated as a public road in 1957 for the Pacific Highway. The residue (subject site) was vested to Lake Macquarie in 1976. Council's Community Planning Department has determined that the proximity to the Pacific Highway makes the site undesirable for a pocket park or another community facility. Council wish to reclassify the land to Operational, rezone it from RE1 to R2 Low Density Residential and amend the Minimum Lot Size Map to enable the land to be sold and developed.

Consistency with
strategic planning
framework :

State Environmental Planning Policies

SEPP 19 - only one site contains any significant bushland vegetation (Item 9, Pinny Beach) and is not identified as having any critical habitat or threatened species. This site is being reclassified as Operational to reflect the current and future use of the site. Although the bushland is unlikely to be considered as having attributes or being a size of significance for this SEPP to apply, further consideration of this SEPP will be required when a future DA is lodged for any future development.

SEPP 55 - Council has considered the requirements of SEPP 55 and advises that this SEPP may be applicable to this PP.

Item 6 (Speers Point) is identified as a contaminated site due to its proximity to the former Pasminco Smelter in the adjoining suburb. This PP is for the reclassification of the site. Any future development application would require a contamination study once the proposed development is determined.

Item 7 (Toronto) has previously been used as part of the Council depot, temporarily storing vehicles and road base. The land is to retain its industrial zoning, so is unlikely to require remediation.

Item 9 (Pinny Beach) was previously used for vehicle access to the adjoining former quarry. No quarrying was carried out of the site, but any future development application for the site will consider contamination.

The provisions of this SEPP are applicable when the sites are developed rather than reclassified.

Minister's s.117 Directions

1.1 Business and Industrial Zones

The PP is consistent with Direction 1.1 because it retains the existing business and industrial zones where applicable (Items 6, 7 & 8). This LEP will ensure that land within these zones can be better developed.

Item 3 is partly zoned B1 Neighbourhood Centre. The site is proposed to be reclassified for the purpose of formalising the existing road. This is not considered inconsistent with this Direction.

2.1 Environmental Protection Zones

The PP is consistent with the Direction. Item 3 is partly zoned E2 Environmental Conservation. The site is proposed to be reclassified for the purpose of formalising the existing road. This is not considered inconsistent with this Direction.

3.1 Residential Zones

The PP is consistent with this direction as it provides for residential development of a residential lot which is currently underutilised (Item 5).

3.4 Integrating Land Use and Transport

The PP is consistent with this direction.

4.1 Acid Sulfate Soils

A number of items are identified within the Lake Macquarie Acid Sulfate Soils Maps. While the reclassification of Items 5, 6, 7, 8 is to ultimately result in additional development, issues such as acid sulphate soil will be more appropriately addressed when the development is being assessed and determined.

4.2 Mine Subsidence and Unstable Land

Consistency or otherwise with this direction will be determined following consultation with the Mine Subsidence Board.

4.3 Flood Prone Land

4 Items within the PP are identified as Flood Prone Land. All of the zoning for the items will remain the same, the PP is not considered therefore, to result in intensification. One Flood prone site is an operational road, and the others are infill residential properties. Any future development will be subject to additional requirements at the development application stage.

4.4 Planning for Bushfire Protection

Consistency or otherwise with this direction will be determined following consultation with NSW RFS.

5.1 Implementation of Regional Strategies

The PP is consistent with this direction.

5.10 Implementation of Regional Plans

The Hunter Regional Plan 2036 was released on 14 October 2016. Consequently, section 117 Direction 5.10 Implementation of Regional Plans applies to the proposal. The planning proposal was completed prior to the January 2017 changes to the 117 Directions, and therefore requires to be updated to provide justification against Direction 5.10. Given the Planning Proposal was submitted prior to these changes, Direction 5.1 should also be considered.

It is considered that the proposal is consistent with the vision, land use strategy, goals, directions and actions of the Hunter Regional Plan 2036.

Prior to undertaking public exhibition, Council should update the planning proposal to consider S117 Direction 5.10 Implementation of Regional Plans.

6.1 Approval and Referral Requirements

The PP is consistent with this direction.

6.2 Reserving Land for Public Purposes

The PP is inconsistent with this Direction 6.2 because it reduces the total area of land zoned RE1 Public Recreation.

It is estimated that around 840sq/m of RE1 Public Recreation zoned land will be rezoned to R2 Low Density Residential. The public recreation land is not well located given its proximity to a busy state road and intersection. For these reasons the loss of RE1 land is considered to be of a minor nature and the inconsistency can be agreed to.

Local Strategies

The matters are considered too minor to be referenced in local strategies.

Environmental social
economic impacts :

Only one site contains any significant bushland vegetation and is not identified as having any critical habitat or threatened species (Item 9).

Council considers the sale and development of surplus land for housing as being positive.

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Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **Mine Subsidence Board
NSW Rural Fire Service**

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
PLANNING PROPOSAL - Amended Gateway Submission.pdf	Proposal	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**
- 2.1 Environment Protection Zones**
- 3.1 Residential Zones**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
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- Additional Information :
1. Prior to undertaking public exhibition, update the planning proposal to refer to S117 Direction 5.10 Implementation of Regional Plans.
 2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning & Environment 2013).
 3. Consultation is required with the following public authority under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Subsidence Advisory NSW (s117 Direction 4.2 Mine Subsidence and Unstable Land)
 - NSW Rural Fire Service (s117 Direction 4.4 Planning for Bushfire Protection)

The public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal. Council should, following receipt of advice from the public authorities, update its consideration of s117 Directions in the planning proposal, as required.
 4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
 5. Council should not exercise their delegations under section 59(1) of the EP&A Act, as the planning proposal includes reclassification of public land that may require the Governor to discharge 'public reserve' status, trusts, interests etc from the land.
 6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

Supporting Reasons : As discussed in the report

Signature:



Printed Name:

G P HOPKINS

Date:

20/1/2017

