

Planning Services

Plan Finalisation Report

Local Government Area: Lake Macquarie

File Number: OBJ16/15910

1. NAME OF DRAFT LEP

Lake Macquarie Local Environmental Plan 2014 Amendment No.25 (draft LEP).

2. SITE DESCRIPTION

The planning proposal applies to land at various sites, namely:

1. 1A Lawson Road MACQUARIE HILLS - Part of Lot 42 DP 1132840
2. 11B Charles Street EDGEWORTH - Lots 17 & 18 Sec 3 DP 2149
3. 163C & 193C Dudley Road WHITEBRIDGE - Lot 2 DP 506536 & Lot 1 DP 372638
4. 28C Thomas Street BARNSELY - Lots 25 & 26 Sec H DP 631
5. 11A Charles Street EDGEWORTH - Lot 16 Sec 3 DP 2149
6. 142 Main Road SPEERS POINT - Lot 13 Sec B DP 4063
7. 26 High Street TORONTO - Lot 2 Sec 17 DP 1097
8. 725 Main Road EDGEWORTH - Lot 1 DP 717715
9. 465A Pacific Highway PINNY BEACH - Lot 8 DP 791995
10. 59A Pacific Highway CHARLESTOWN - Lot 1011 DP 1140442

3. PURPOSE OF PLAN

The draft LEP seeks to reclassify various Council owned sites from community land to:

- operation land for the purpose of road dedication for sites 1 to 4
- operation land for sites 5 to 9
- operation land and make the following zoning and development standard changes for site 10:
 - rezone the land from RE1 Public Recreation to R2 Low Density Residential consistent with the surrounding area; and
 - amend the lot size map to show a minimum lot size of 450 sqm.

4. STATE ELECTORATE AND LOCAL MEMBER

The sites fall within the Lake Macquarie, Cessnock, Charlestown and Swansea State Electorates. Greg Piper MP is the State Member for Lake Macquarie, Clayton Barr MP is the State Member for Cessnock, Jodie Harrison is the State Member for Charlestown and Yasmin Catley is the State Member for Swansea.

The sites fall within the Shortland and Hunter Federal Electorates. Pat Conroy MP is the Federal Member for Shortland and Joel Fitzgibbon MP is the Federal Member for Hunter. To the regional planning team's knowledge, none of the State or Federal MPs have made any written representations regarding the proposal.

NSW Government Lobbyist Code of Conduct: There have been no meetings or communications with registered lobbyists with respect to this proposal.

NSW Government reportable political donation: A political donation disclosure statement has been provided.

5. GATEWAY DETERMINATION

The Gateway determination issued on 23 January 2017 (**Attachment B**) determined that the proposal should proceed subject to conditions.

The proposal is due for finalisation on 30 January 2018, noting the recommendation to grant a Gateway extension due to delays in gaining approval from ExCo.

6. PUBLIC CONSULTATION

In accordance with the Gateway determination, community consultation was undertaken by Council from 25 February 2017 to 27 March 2017 and no submissions were received. A public hearing was also held on 2 May 2017 and no submissions were received.

7. ADVICE FROM PUBLIC AUTHORITIES

Council was required to consult with NSW Rural Fire Service and Subsidence Advisory NSW in accordance with the Gateway determination.

Council has consulted these authorities and neither raised any objection to the proposal.

8. POST-EXHIBITION CHANGES

No changes to the planning provisions were made following exhibition.

9. ASSESSMENT

The proposal involves the reclassification of Council owned land (including road reserves) for 10 sites and a change in land use zone and minimum lot size for one of these sites. The report recommends that the draft LEP be made for the follow reasons:

- 9 of the 10 sites are already zoned consistent with the surrounding area to enable development of around 10 additional houses and 560 sqm of commercial floor space.
- The site currently zoned RE1 Public Recreation has been considered unsuitable for recreation uses;
- The sites were acquired by Council prior to the *Environmental Planning and Assessment Act 1979* coming into effect, hence there are no local infrastructure contributions issues;
- There are no known environmental, social, economic or infrastructure related issues that should limit the further development of these sites; and
- The sites have been assessed by Council's Rezoning Advisory Panel as being suitable for further development. The Department's consideration of the proposal agrees with this assessment.

The Governor gave approval for the discharge of interests for sites 1, 4, 7 and 10 on 18 April 2018.

Section 9.1 Directions

There are no unresolved section 9.1 Directions applying to this proposal.

State environmental planning policies

The draft LEP is consistent with the relevant SEPPs, noting that Development application processes and assessment will resolve any site contamination issues (SEPP 55).

State, regional and district plans

The proposal is of a minor nature and is consistent with the Hunter Regional Plan 2036 and the draft Greater Newcastle Metropolitan Plan.

10. MAPPING

The LEP amendment includes an amendment to the Land Use Zone and Minimum Lot Size maps associated with the site at 59A Pacific Highway Charlestown. The maps and map cover sheet have been checked by the Department's ePlanning Team and sent to Parliamentary Counsel.

11. CONSULTATION WITH COUNCIL

Council was consulted on the terms of the draft instrument under clause 3.36(1) of the *Environmental Planning and Assessment Act 1979* (**Attachment C**). Council confirmed on 31 October 2017 that it was happy with the draft and that the plan should be made (**Attachment D**).

12. PARLIAMENTARY COUNSEL OPINION

On 31 October 2017, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. It is noted that the PC opinion was re-issued without change on 5 March 2018. The re-issued Opinion is provided at **Attachment PC**.

13. EXTENSION OF TIME

The Planning Proposal was due to be finalised by 30 January 2018. The delay in completing the proposal has been mainly due to delays in the Executive Council process to remove restrictions on title of community land. It is recommended that the proposal be extended for 4 months to enable the plan to be completed, by 30 May 2018.

The letter to Council includes advice that the timeframe for completion of the Planning Proposal has been extended by replacing condition no. 5 with a new condition.

14. RECOMMENDATION

As delegate of the Minister:

1. **agree** under section 3.34(7) of the *Environmental Planning and Assessment Act 1979* (the Act), to alter the Gateway determination for planning proposal no. PP_2017_LAKEM_001_00 as set out in the letter to Council which involves the extension of the timeframe to complete the proposal by deleting condition 5. and replacing it with a new condition as shown under;
 5. The timeframe to complete the LEP is to be 30 May 2018;
2. **agree** under schedule 1, clause 4 of the Act that no additional community consultation is required;

3. **note** the planning proposal (Attachment A), the Gateway determination (Attachment B) ;
4. **note** Parliamentary Counsel's Opinion that the draft LEP can legally be made and no changes have been made to the draft LEP since obtaining this Opinion (Attachment PC);
5. **note** the LEP maps (Attachment Maps), which have been approved by the Department's ePlanning Team and provided to Parliamentary Counsel;
6. **make** the draft LEP under section 3.36 of (the Act), by signing the instrument (Attachment LEP) and supporting Map Cover Sheet (Attachment MCS) respectively; and
7. **sign** the letter to Lake Macquarie City Council (Attachment Council) advising of this decision.



30 April 2018
James Shelton
A/Team Leader



1 May 2018
Monica Gibson
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Planning Services

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Attachments

Attachment	Title
A	Planning proposal
B	Gateway determination
C	Section 3.36(1) consultation with Council
D	Council's comments on draft LEP
PC	Parliamentary Counsel's Opinion
LEP	Draft LEP
Maps	LEP Maps
MCS	Map Cover Sheet
Council	Letter to council advising of the decision