

<b>22SP009</b>	Public exhibition of Draft Planning Proposal to the Lake Macquarie Local Environmental Plan 2014 and the Draft Local Approvals Policy
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<b>Key focus area</b>	4. Diverse economy
<b>Objective</b>	4.2 We have an adaptable and diverse economy
<b>File</b>	F2015/00514/03 - D10041096
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## Executive Summary

This report seeks Council's endorsement to publicly exhibit the draft Local Approvals Policy and an associated amendment to the *Lake Macquarie Local Environmental Plan (LMLEP) 2014*. The proposed amendments to the draft Local Approvals Policy facilitate footway trading and the temporary occupation of land whilst constructing a dwelling. The amendments are also designed to align mobile food vending, outdoor dining and street stalls to state government policy. The associated draft Planning Proposal seeks to change the *LMLEP 2014* to include events (including markets) on Council-owned land and A-frame signage in employment zones as exempt development with associated criteria.

## Recommendation

Council:

- A. requests a Gateway Determination from the Department of Planning, Industry and Environment, pursuant to the *Environmental Planning and Assessment Act (EP&A Act) 1979* in relation to the draft Planning Proposal, as provided in Attachment 1,
- B. requests the use of plan making delegations from the Minister for Planning and Public Spaces under section 3.36 of the *EP&A Act 1979* for the draft Planning Proposal,
- C. undertakes State agency consultation and places the draft Planning Proposal on public exhibition for at least 28 days, subject to the outcome of the Gateway Determination,
- D. prepares an amendment to the Local Approvals Policy as provided in Attachment 2 and notifies the Office of Local Government of Council's intention to amend the Local Approvals Policy,
- E. places the draft Local Approvals Policy on public exhibition for at least 28 days concurrently with the draft Planning Proposal,
- F. extends the VibrantSCENE Pilot Program as a temporary measure to provide continuity and business certainty until the adoption and implementation of the draft Local Approvals Policy, and
- G. receives a further report on the outcome of consultation and public exhibition.

## Discussion

The proposed changes to the *LMLEP 2014* and the Local Approvals Policy relate to A-frame signage, events on Council land, footway trading and the temporary occupation of land during the construction of a dwelling. These changes have been identified as requiring controls or improvement to existing controls to make it easier and clearer for people wanting to undertake this type of low impact activity. The current and proposed policy/process are listed in the table below.

Activity	Current policy/process	Proposed policy/process
<b>Events (including markets) on Council-owned land</b>	<ul style="list-style-type: none"> <li>Low impact events approved under the Local Approvals Policy.</li> <li>Higher impact or larger events require a development application.</li> <li>Unclear what is deemed a low impact event.</li> </ul>	<ul style="list-style-type: none"> <li>Events removed from the Local Approvals Policy.</li> <li>Low impact events to be listed as exempt development under the <i>LMLEP 2014</i>. That is, no development application required providing the event meets the exempt development criteria.</li> <li>Separate approval/lease still required from Council for use of our land.</li> <li>Higher impact, larger events or those occurring frequently require a development application.</li> <li>This approach is consistent with many other NSW councils.</li> </ul>
<b>A-frame signage in employment zones</b>	<ul style="list-style-type: none"> <li>Requires a development application.</li> <li>No procedure or guideline for businesses or compliance officers to follow resulting in compliance issues.</li> </ul>	<ul style="list-style-type: none"> <li>Listed as exempt development under <i>LMLEP 2014</i>. That is, no development application required providing the sign meets the exempt development criteria.</li> <li>Business owners self-assess against the exempt development criteria which gives clear guidance as to the location and type of signage permissible and limits the extent and impact of signage. This provides improved clarity for our compliance officers.</li> </ul>
<b>Footway trading – display of products</b>	<ul style="list-style-type: none"> <li>Requires a development application</li> </ul>	<ul style="list-style-type: none"> <li>Included as an exempt activity under the <i>Local Approvals Policy</i>.</li> </ul>

Activity	Current policy/process	Proposed policy/process
<b>and goods on the footpath</b> (This is different to Footway Dining which is already listed in the Local Approvals Policy)	<ul style="list-style-type: none"> <li>No procedure or guideline for businesses or compliance officers to follow resulting in compliance issues.</li> </ul>	<ul style="list-style-type: none"> <li>Business owners self-assess against the exempt development criteria which gives clear guidance as to the location and type of signage permissible and limits the extent and impact of signage. This provides improved clarity for our compliance officers.</li> </ul>
<b>Occupation of moveable dwelling during construction of a permanent dwelling</b>	<ul style="list-style-type: none"> <li>Requires a development application.</li> <li>No procedure or guideline for customers or compliance officers to follow resulting in compliance issues.</li> </ul>	<ul style="list-style-type: none"> <li>Would require an approval under the Local Approvals Policy.</li> <li>Council staff assess applications against proposed criteria which gives clear guidance to the types of moveable dwellings and occupation times during the construction of a permanent dwelling.</li> </ul>

A-frame signage is not an activity recognised under the *Local Government Act 1993* and therefore it is not eligible to be included in the draft Local Approvals Policy.

The draft Local Approvals Policy (Attachment 2) also contains minor changes for mobile vending, street stalls and outdoor dining activities to clarify what is included and required for these activities and to align with recent state government policy changes.

### Assessment of options

A number of options were considered in the review of the Local Approvals Policy. Under the *Local Government Act 1993*, the Local Approvals Policy must be endorsed by a new Council within 12 months of an election. For this reason, a do-nothing option was not considered.

It is recommended Council amends both the Local Approvals Policy and the *LMLEP 2014*. This option addresses the issues raised by staff and our business community, providing clear guidance for street activation activities, whilst also providing clarification on our events approval process. The changes for A-frame signage need to be under the *LMLEP 2014* as signage is not a use that can be included under the draft Local Approvals Policy.

The VibrantSCENE Pilot Program is due to finish on 31 May 2022. As the proposed changes include some of the activities from the VibrantSCENE Pilot Program, it is also recommended that the pilot continue until the proposed changes to the Local Approvals Policy are adopted. This will give confidence to businesses currently undertaking expanded outdoor dining and the food truck operators that they can continue their operations whilst the required policy changes are made.

Council could choose to make no changes to the documents and endorse the Local Approvals Policy as it currently is. This is not recommended as it does not include changes

that have been tested through the VibrantSCENE Pilot Program, or address issues that have been raised by staff and businesses.

Similarly, amending only the Local Approvals Policy would not address the need from the business community for A-frame signage controls, or clarify the approval process for events.

### ***Community engagement and internal consultation***

The Local Approvals Policy Review Group was established in July 2016 and includes staff from across Council. The Local Approvals Policy Review Group has proposed the inclusion of footway trading and provisions for the temporary occupation of land during construction of a dwelling in the draft Local Approvals Policy. The group also reviewed the proposed changes for street stalls and mobile vending and recommended the removal of events from the Local Approvals Policy and inclusion of these activities into Schedule 2 – Exempt development of the *LMLEP 2014*.

Criteria for footway trading and A-frame signage was developed in consultation with Council compliance officers and their feedback from businesses.

Consultation with businesses and the general community will be undertaken during public exhibition of the draft Planning Proposal and the draft Local Approvals Policy. It is proposed to put both documents on public exhibition for at least 28 days.

### ***Key considerations***

<b>Economic impacts</b>	The proposed changes to the draft Local Approvals Policy and the <i>LMLEP 2014</i> support economic sustainability by allowing greater flexibility for businesses, improving economic opportunities.
<b>Environment</b>	There are no significant environmental sustainability considerations based on the proposed changes to the Local Approvals Policy and the <i>LMLEP 2014</i> .
<b>Community</b>	The proposed changes to the draft Local Approvals Policy and the <i>LMLEP 2014</i> support social sustainability by allowing businesses to activate streets in more varied ways. This will help create vibrant and inviting centres for our community and visitors.
<b>Civic leadership</b>	The proposed changes support sustainable governance by providing clear and consistent criteria for activities in the public domain. Having this consistency makes it easy for businesses, community members and Council staff to undertake and administer these activities.
<b>Financial</b>	A relevant fee is charged for the approval of certain activities under the Local Approvals Policy. The amount of the fee and which activities attract a fee are covered in Council's Fees and Charges document that accompanies the Operational Plan and Budget.
<b>Infrastructure</b>	There are no significant infrastructure considerations based on the proposed changes to the Local Approvals Policy and the <i>LMLEP 2014</i> .

<b>Risk and insurance</b>	Businesses undertaking activities must hold Public Liability Insurance with Council listed as an interested party. There are no changes to risk for Council relating to the proposed changes to the draft Local Approvals Policy and the <i>LMLEP 2014</i> .
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### ***Legislative and policy considerations***

*Environmental Planning and Assessment Act 1979*

*Local Government Act 1993*

*Roads Act 1993*

*Lake Macquarie Local Environmental Plan 2014*

Lake Macquarie Local Approvals Policy

Lake Macquarie Plan of Management for Community Land

### ***Attachments***

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|---|----------------------|-----------|
| 1. Draft Planning Proposal - Placement of A-frame signage on footpaths and events on Council owned land |                      | D08025665 |
| 2. DRAFT - Local Approvals Policy - Council Policy - Version 6  | Under separate cover | D10555816 |