

Planning Services

EF19/15622

Plan finalisation report

Local government area: Lake Macquarie

1. NAME OF DRAFT LEP

Lake Macquarie Local Environmental Plan 2014 (Amendment No 34)

2. SITE DESCRIPTION

The planning proposal applies to the Lake Macquarie local government area (LGA).

3. PURPOSE OF PLAN

The draft LEP seeks to delete clause 7.12 Development for the purposes of seniors housing.

4. STATE ELECTORATE AND LOCAL MEMBER

The Lake Macquarie LGA falls within the Lake Macquarie, Charlestown, Swansea and Wallsend State Electorates. Greg Piper MP is the State Member for Lake Macquarie, Jodie Harrison MP is the State Member for Charlestown, Yasmin Catley MP is the State Member for Swansea, Sonia Hornery MP is the State Member for Wallsend

The sites fall within the Hunter and Shortland Federal Electorates. Joel Fitzgibbon MP is the Federal Member for Hunter and Pat Conroy MP is the Federal Member for Shortland.

To the regional planning team's knowledge, no MP has 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 AND ALTERATIONS

Council requested the LEP amendment occur as an expedited LEP amendment under section 3.22(1)(b) (**Attachment A**). The amendment seeks to delete clause 7.12 Development for the purposes of seniors housing (**Attachment B**) because it has expired.

As the amendment is occurring as an expedited LEP amendment under section 3.22, no Gateway determination has been issued.

6. PUBLIC EXHIBITION

As the amendment is occurring as an expedited LEP amendment under section 3.22, no public exhibition has occurred.

7. ADVICE FROM PUBLIC AUTHORITIES

As the amendment is occurring as an expedited LEP amendment under section 3.22, no agency consultation has occurred.

8. POST-EXHIBITION CHANGES

No changes have been made to the proposal.

9. ASSESSMENT

Clause 7.12 Development for the purposes of seniors housing maintained the opportunity for seniors housing to be developed in certain locations which were allowed under the Lake Macquarie LEP 2004. The clause contains a sunset provision (clause 7.12(4)) and Council advises that the sunset period has now passed, with the clause expiring on 10 October 2016. Given this, Council now seeks to remove the clause from the LEP 2014.

Council requests that the LEP amendment proceed as an expedited amendment under section 3.22(1)(b) because it addresses matters that are transitional or machinery in nature.

Removal of the clause is supported because it no longer applies. The use of section 3.22(1)(b) to amend the LEP is also supported because the nature of the change is consistent with 3.22(1)(b) being to address matters in the principal instrument (the LEP 2014) that are of a consequential, transitional, machinery or other minor nature.

Removal of the clause does not affect *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. Nor does it change the opportunities for seniors housing development provided by the LEP 2014 land use table.

Section 9.1 Directions

As the amendment is occurring as an expedited LEP amendment under section 3.22, no consideration of section 9.1 Directions is required.

State environmental planning policies

As the amendment is occurring as an expedited LEP amendment under section 3.22, no consideration of section 9.1 Directions is required.

State and regional plans

As the amendment is occurring as an expedited LEP amendment under section 3.22, no state, regional or district plans are relevant.

10. MAPPING

There are no maps associated with the LEP amendment.

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 E)*. Council confirmed on 3 June 2019 that it was happy with the draft and that the plan should be made (**Attachment F**).

12. PARLIAMENTARY COUNSEL OPINION

On 6 June 2019, Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at **Attachment PC**.

13. RECOMMENDATION

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- Clause 7.12 has expired and may be removed from the LEP.



8/7/2019
Caitlin Elliott
Team Leader, Hunter



8/7/2019
Monica Gibson
Director, Central Coast and Hunter
Planning & Assessment

Assessment officer: Ben Holmes
Senior Planner, Hunter
Phone: 4904 2709

| Attachment | Title |
|-------------------|--|
| A | Section 3.22 request |
| B | Clause 7.12 |
| D | Section 3.36(1) consultation with Council |
| E | Council comments on draft LEP |
| PC | Parliamentary Counsel's Opinion |
| LEP | Draft LEP |
| Council | Letter to Council advising of the decision |