

Nambucca LEP 2010 Amendment No 14 – Seniors Housing at 24 Coronation Drive Congarinni North.

Proposal Title :	Nambucca LEP 2010 Amendment No 14 – Seniors Housing at 24 Coronation Drive Congarinni North.		
Proposal Summary :	The planning proposal seeks to amend Schedule 1 of the Nambucca LEP 2010 to permit a seniors housing development on Lots 155 and 188 DP 755537, 24 Coronation Drive, Congarinni North.		
PP Number :	PP_2013_NAMBU_002_00	Dop File No :	13/10417

Proposal Details

Date Planning Proposal Received :	20-Jun-2013	LGA covered :	Nambucca
Region :	Northern	RPA :	Nambucca Shire Council
State Electorate :	OXLEY	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	24 Coronation Drive		
Suburb :	Congarinni North	City :	Macksville
		Postcode :	2447
Land Parcel :	Lots 155 and 188 DP 755537		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes

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MDP Number :	0	Date of Release :	
Area of Release (Ha) :	57.30	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	2	No. of Dwellings (where relevant) :	220
Gross Floor Area :	88,000.00	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

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

If Yes, comment :

Supporting notes

Internal Supporting Notes : **This site is located across Taylors Arm, a tributary of the Nambucca River, from the town of Macksville. A Seniors Living State Policy application was lodged in 2009 but could not be considered because the site does not directly adjoin urban land as the Policy requires.**

External Supporting Notes : **The proponent, Hampton Property Services, estimates that the proposed development will comprise approximately 88,000m2 of independent living units, 7000m2 of nursing home and 1500m2 of community centre building.**

Adequacy Assessment

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

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

Comment : **The Statement of objectives adequately describes the intention of the planning proposal. The proposal seeks to amend the Nambucca LEP 2010 to enable the subject land to be developed for the purposes of seniors housing.**

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

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

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposed amendment will amend the LEP by adding an entry to Schedule 1 of the LEP which permits seniors housing on the subject land with development consent.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.2 Rural Zones

2.1 Environment Protection Zones

2.2 Coastal Protection

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

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**5.1 Implementation of Regional Strategies
6.3 Site Specific Provisions**

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

**SEPP No 14—Coastal Wetlands
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Rural Lands) 2008**

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

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **See the assessment section of his report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The planning proposal contains maps which identify the site and explain the constraints and characteristics. No mapping is required for the proposed amendment to the LEP which will constitute an additional permitted use added to Schedule 1 of the written document.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The planning proposal suggests a 28 day consultation period. The proposal is not considered to be a low impact proposal since the proposal is not consistent with surrounding land zonings or the strategic planning framework and may present issues with regard to infrastructure. A 28 day consultation period is considered to be adequate.**

The RPA has provided a project timeline which estimates the completion of the planning proposal in February 2014. Given the recommendation for further investigations into flooding, aboriginal heritage, acid sulphate soils and servicing it is considered that a time frame of 12 months is more appropriate.

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 :

The planning proposal satisfies the adequacy criteria by;
1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line
6. Completing the evaluation criteria for the delegation of plan making functions.

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Issue of Written Authorisation to Exercise Delegation.

Council has provided a completed "Evaluation criteria for the issuing of an Authorisation". The evaluation concludes that an Authorisation may be issued. It is considered that an Authorisation should be issued. There are some inconsistencies between the proposal and the strategic planning framework however these are of minor significance or may be resolved following further investigation.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Nambucca LEP commenced in July 2010. This planning proposal seeks an amendment to the Nambucca LEP 2010.

Assessment Criteria

Need for planning proposal :

The proposal is indirectly the result of a strategic study. The Nambucca Shire 20 Year Structure Plan, prepared in March 2008 identified the site as having potential for a business park, educational facility or seniors housing development. The Structure plan will be discussed later in this report in the section "Consistency with Strategic Planning Framework".

In 2009, an application for a site compatibility certificate under SEPP (Housing for Seniors or People with a Disability) was made to the Department. The application was unable to be considered since the land did not adjoin land zoned primarily for urban purposes, as required by clause 4(1) of the SEPP. The land is separated from the urban zones of Macksville by a road, river and an area of Crown land.

The proposal to amend the LEP is therefore the only option to enable a seniors housing development on the site. The proposal seeks to add an additional permitted use to Schedule 1 of the LEP. The merits of rezoning the land to a residential zone, or making seniors housing permissible in the RU1 Primary Production zone which applies to the majority of the site are considered in the planning proposal.

Rezoning the land to a residential zone would enable the land to be developed for uses other than seniors housing which is the desired use for the site. There is a demonstrated need for additional seniors housing in the Nambucca Shire as well as the Mid North Coast.

An amendment to the LEP which makes seniors housing permissible in the RU1 zone throughout the local government area (LGA) may lead to ad hoc development of rural land for seniors housing purposes where the land has not been the subject of a thorough strategic investigation.

The inclusion of an additional permitted use in Schedule 1 of the LEP is therefore the most appropriate means of amending the LEP to enable the development of the site for seniors housing.

Consistency with
strategic planning
framework :

Mid North Coast Regional Strategy (MNCRS).

The proposal will implement an action of the MNCRS which requires councils to plan for a range of housing types of appropriate density, location and suitability that are capable of adapting and responding to the ageing population. The Strategy recognises the region has an ageing population and that this will require specific infrastructure and facilities.

However the location of the subject site for seniors housing is currently considered to be inconsistent with the MNCRS. The land has not been identified for residential purposes in a Department endorsed local strategy. The subject land is not located within an agreed growth area boundary as identified in the MNCRS. The MNCRS requires that proposals outside of the agreed growth area boundaries can be considered only if they satisfy the Sustainability Criteria contained in Appendix 1 of the MNCRS. An assessment of the sustainability criteria has been included in the planning proposal.

The Sustainability Criteria assessment contained in the planning proposal does not identify any significant constraints to the proposal. However, it is considered that further investigation is necessary to address some matters before it can be concluded that the site is consistent with the sustainability criteria. These matters are as follows;

1. **Infrastructure Provision** – The planning proposal states that water, electricity and sewer are available though upgrading may be required. However Council advised that sewer is not available and a concept servicing plan should be prepared prior to exhibition to ensure necessary infrastructure can be provided should the development proceed.
2. **Access** – the planning proposal relies on the existing road infrastructure and a proposed private shuttle bus to provide access for pedestrians from the proposed seniors housing development to Macksville central business district (CBD). However Council has indicated that access for pedestrians and motorised scooters from the subject land to Macksville should be given further consideration. It is recommended that pedestrian access should be considered as part of the infrastructure servicing investigations.
3. **Avoidance of Risk** – The planning proposal confirms that the proposed seniors housing will be located on land above the flood plain however it does not address whether a safe and reliable evacuation route is available during a flood event. Council advised that additional investigation into flooding is necessary and particular consideration should be given to the appropriateness of a seniors housing development which may be isolated in a flood event. Additionally, the planning proposal does not address the potential for land use conflict with adjoining rural properties.

The MNCRS provides that future urban development will not be located in areas of high risk from natural hazards. Council has considered the issue of flooding on the site. The eastern portion of the site, which includes the vehicular access and road to Macksville, is flood prone and adjoins a high risk floodway as identified by Council's Flood Risk Management Plan. The actual seniors housing development is proposed on the flood free portion of the land. Council recommends that flooding issues are investigated further with particular emphasis on the appropriateness of a seniors housing development being isolated in a flood event.

The MNCRS provides that regionally significant farmland will not be available for future urban or rural residential rezoning other than in limited circumstances as permitted by the Mid North Coast Farmland Mapping Project Final Recommendations Report (2008). Approximately the eastern third of Lot 188 is classified as regionally significant farmland (RSF). This area of RSF correlates with the flat flood liable portion of the site and does not include the raised portion of the site on which the seniors housing is proposed. However development of the site for seniors housing is expected to result in cessation of farming on the land or the potential for land use conflicts to prevent ongoing farming activities. The planning proposal states that the land is not currently used for primary production and the topography and native vegetation on the site means that the site is not well suited to agricultural pursuits.

The Mid North Coast Farmland Mapping Project - Final Recommendations Report 2008, notes that where land contains both significant farmland and other rural land, it is only the significant farmland that should be protected from urban purposes. The concept plan for the seniors housing development appears to achieve this, however a land use conflict risk analysis should be prepared to determine the appropriate buffer distances between the RSF and the proposed seniors housing on the site. It is possible that part of the site could be developed for seniors housing without compromising the use of the RSF however further investigation is required.

Consistency with Council's Local Strategies.

The planning proposal states that the subject land was identified for seniors housing purposes in the Nambucca Shire Structure Plan 2008. The outcomes of the Structure plan were intended to be included in the local growth management strategies (GMS). The Structure plan does not constitute a local strategy approved by the Director General. A residential GMS has not been approved for Nambucca Shire since the Structure plan was completed. Council staff advised that a residential GMS has recently been commenced however its progress is awaiting a constraints analysis and is not expected to be completed in the near future.

SEPPs

The planning proposal identifies the following SEPPs as being relevant to the proposal; SEPP 14 – Coastal Wetlands, SEPP 44 – Koala Habitat Protection, SEPP 55 – Remediation of Land, SEPP 71 – Coastal Protection, SEPP (Infrastructure). The planning proposal does not identify any inconsistencies with these SEPPs.

SEPP 55 – The SEPP requires preliminary investigation of the potential for contamination to be conducted before land is rezoned to enable it to be used for residential purposes. Given the intensification of residential use proposed it is recommended that a preliminary contamination assessment be undertaken prior to exhibition of the planning proposal.

SEPP (Housing for Seniors or People with a Disability) – The SEPP does not contain any requirements for amending an LEP to permit the development of seniors housing. However the SEPP does contain site related requirements and design requirements which must be addressed at development application stage for a seniors housing development.

SEPP (Rural Lands) 2008 – The SEPP contains Rural Planning Principles which are relevant to the planning proposal. The proposal for a seniors housing development on a specific site on the edge of the Macksville urban area avoids the constrained land and potentially enables the ongoing use of regionally significant farmland on the site. Further investigation will establish whether adequate buffer distances can be achieved between the proposed seniors housing and neighbouring agricultural activities thereby protecting current and future opportunities for productive agricultural pursuits. The provision of aged care housing in close proximity to the urban area is an important consideration for the wider community. It is considered that the proposal is not significantly inconsistent with the rural planning principles of the SEPP.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.5 Rural Lands, 2.1 Environmental Protection Zones, 2.2 Coastal Protection, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 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, and 6.3 Site Specific Provisions.

Of the above s117 Directions the proposal is inconsistent with Directions 4.1, 4.4 and 5.1. The proposal may be inconsistent with directions 2.3 and 4.3 however until investigations are completed the extent of any inconsistency is unknown.

Direction 2.3 Heritage Conservation is relevant to the proposal. The direction provides that a planning proposal must contain provisions which facilitate the conservation of Aboriginal

objects, areas, places or landscapes identified in an Aboriginal heritage study.

The planning proposal indicates that investigations into the potential for Aboriginal cultural heritage on the site have not been undertaken. It is considered that such investigations should occur before it can be determined whether the proposal is consistent with the direction.

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The direction provides that a draft plan shall not permit the intensification of land containing acid sulfate soils unless a study of the land assessing its suitability has been conducted.

The subject land contains class 2, 3 and 5 acid sulfate soils (ASS). The proposal seeks to permit seniors housing to be constructed on that part of the land subject to the class 5 ASS. Those parts of the land which are subject to classes 2 and 3 ASS are flood prone and are not proposed for development. However access roads and services will need to be brought through these higher risk areas and Council has indicated that should the proposal proceed an ASS study will be required. This can be addressed at development application stage. The proposal may be inconsistent with the direction if it is justified by a study or is of minor significance. Class 5 ASS are the lowest risk class and the Nambucca LEP already contains provisions for management of ASS through the development application process. The inconsistency of the proposal with the direction is considered to be of minor significance and therefore is justified in accordance with the terms of the direction.

Direction 4.3 Flood Prone Land is relevant to the proposal. The direction provides that a draft plan must not contain provisions which permit a significant increase in the development of flood prone land. The proposal seeks to permit the development of the land for seniors housing.

The proposal states that the seniors housing will be located on the higher portion of the land which is above the 1:100 year flood level. However access to the site and road access into Macksville is through land which is flood prone and across a high hazard floodway. An investigation into the flooding issues and the potential for the site to be isolated in a flood event has not been conducted and is recommended by Council.

The direction states that the proposal may be inconsistent with the direction if the proposal is consistent with a floodplain management plan or the inconsistencies are of minor significance. It is considered that the inconsistency of the proposal with the direction cannot be determined until the flooding investigations are completed.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. The land is identified as being partly bush fire prone. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service, and the draft plan must include provisions relating to bushfire control. Consultation with the RFS is required after the Gateway determination is issued and until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

Direction 5.1 Implementation of Regional Strategies is relevant to the proposal. The direction provides that a planning proposal must be consistent with the regional strategy. A proposal may be inconsistent with the strategy if the proposal is of minor significance and achieves the overall intent of the strategy.

It is considered that the inconsistencies of the proposal with the MNCRS do not compromise the overall intent of the MNCRS. The proposed seniors housing will implement an action of the strategy to plan for the provision of housing for the ageing population. The application of the sustainability criteria is appropriate for the site as it is not located within the coastal area however further investigations are required to adequately address the criteria. The proposal specifically seeks to enable a seniors housing development on a specific site and therefore will not have a broad impact on the LGA or region. Therefore the inconsistency of the proposal with the direction is considered to be justified in accordance with the terms of the direction.

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The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

The majority of the subject land is cleared rural land used for grazing and has been disturbed by prior activities. A SEPP 14 wetland is located over a portion of land in the north east of the site. Vegetation in the west of the site contains potential koala habitat and an osprey nesting site. The development of the site for seniors housing is proposed on the already cleared portions of the land. The flora and fauna report of 2004 considers the cleared areas unconstrained and by locating the development in this portion of the site would avoid demonstrable impacts on threatened species. Council advised it is appropriate to review and update the 2004 flora and fauna report to reflect current legislation.

The planning proposal states that the proposed development will provide much needed aged care housing and diverse housing types. The additional population is likely to provide employment opportunities during both construction and operation of the aged care facilities. The increased population is also likely to have a multiplier effect for the local economy however this has not been quantified.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	0 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Department of Primary Industries - Agriculture Office of Environment and Heritage - NSW National Parks and Wildlife Service NSW Rural Fire Service Transport for NSW - Roads and Maritime Services State Emergency 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. :

Flora

Fauna

Heritage

Bushfire

Flooding

Other - provide details below

If Other, provide reasons :

Land contamination.

Land use conflict.

Infrastructure servicing.

See assessment section of this report for the reasons for these additional studies.

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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
Council cover letter - Nambucca LEP Am #14 24 Coronation Drive Congarinni.pdf	Proposal Covering Letter	Yes
Planning Proposal - 24 Coronation Drive Congarinni - Nambucca LEP Am #14.pdf	Proposal	Yes
Planning Proposal additional information - 24 Coronation Drive Congarinni - Nambucca LEP Am #14.pdf	Proposal	Yes
Project Time line - Nambucca LEP Am #14 24 Coronation Drive Congarinni.pdf	Proposal	No
Information checklist- Nambucca LEP Am #14 24 Coronation Drive Congarinni.pdf	Proposal	No
Bushfire Impact Assessment - August 2004.pdf	Study	Yes
Bushfire Update Report - April 2009.pdf	Study	Yes
Council report - Nambucca LEP Am #14 24 Coronation Drive Congarinni.pdf	Determination Document	Yes
Delegation evaluation criteria - Nambucca LEP Am #14 24 Coronation Drive Congarinni.pdf	Proposal	No
Flora & Fauna Investigations - August 2004.pdf	Study	Yes
Water Management Strategy - August 2004.pdf	Study	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

- S.117 directions:
- 1.2 Rural Zones**
 - 2.1 Environment Protection Zones**
 - 2.2 Coastal Protection**
 - 3.4 Integrating Land Use and Transport**
 - 4.1 Acid Sulfate Soils**
 - 4.3 Flood Prone Land**
 - 4.4 Planning for Bushfire Protection**
 - 5.1 Implementation of Regional Strategies**
 - 6.3 Site Specific Provisions**

Additional Information : **It is recommended that;**

- 1. The planning proposal should proceed as a 'routine' planning proposal.**
- 2. The following investigations are to be conducted and, in accordance with Section 57(2) of the Act, forwarded to the Department for the Director General's approval prior to being placed on public exhibition with the planning proposal;**
 - a. A flood study which also addresses evacuation and gives consideration to the appropriateness of a seniors housing development that may be isolated in the event of a flood.**
 - b. An aboriginal heritage assessment.**
 - c. A preliminary contamination assessment as required by SEPP 55 Remediation of Land.**
 - d. An infrastructure and servicing assessment which addresses what infrastructure is required to service the proposed development and includes consideration of pedestrian access from the subject site to the Macksville CBD.**
 - e. Revised and updated, where necessary, flora and fauna reports and bushfire**

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reports.

- f. A land use conflict risk analysis
3. The planning proposal is to be completed within 12 months.
4. That a community consultation period of 28 days is necessary.
5. Council is to consult with the NSW Rural Fire Service as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection and amend the planning proposal, if necessary, to take into consideration any comments made prior to undertaking public exhibition.
6. Council is to consult with the following State agencies once the investigations listed in condition 2 have been completed;
 - a. NSW Office of Environment and Heritage.
 - b. NSW Department of Primary Industries.
 - c. The Local aboriginal land council.
 - d. NSW Roads and Maritime Services.
 - e. NSW State Emergency Service.
7. A written authorisation to exercise delegation is issued to Nambucca Council, and Council be required to address the inconsistency with S117 directions 2.3 and 4.3.
8. That a delegate of the Director General agree that the inconsistency of the proposal with S117 Directions 1.5, 4.1 and 5.1 are justified in accordance with the terms of the direction.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal to provide for seniors housing is consistent with the actions of the MNCRS however the site requires further investigation to confirm it is appropriate for such a development.
2. The inconsistencies of the proposal with the strategic planning framework are either of minor significance or require further investigation to assess the extent of the inconsistency.

Signature:



Printed Name:

JIM CLARK

Date:

27 June 2013