

Amendment 34 to Port Macquarie Hastings LEP 2011 ("housekeeping")

Proposal Title : **Amendment 34 to Port Macquarie Hastings LEP 2011 ("housekeeping")**

Proposal Summary : **This planning proposal includes 13 minor amendments, including additional land uses in certain zones, clarification of wording of certain clauses, adding environmental and large-lot residential zones to those to which tree preservation provisions can be applied, minor amendments to zoning, correcting errors in heritage item land descriptions and minor adjustments in building height settings - details in "Supporting Notes" below.**

PP Number : **PP_2015_PORTM_002_00**

Dop File No :

15/07141

Proposal Details

Date Planning Proposal Received : **30-Apr-2015**

LGA covered :

Port Macquarie-Hastings

Region : **Northern**

RPA :

Port Macquarie-Hastings Council

State Electorate : **PORT MACQUARIE**

Section of the Act :

55 - Planning Proposal

LEP Type : **Housekeeping**

Location Details

Street :

Suburb :

City :

Postcode :

Land Parcel : **Various sites in Port Macquarie - also amendments applying to the entire local government area**

DoP Planning Officer Contact Details

Contact Name : **Jim Clark**

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RPA Contact Details

Contact Name : **Stephen Nicholson**

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DoP Project Manager Contact Details

Contact Name : **Jim Clark**

Contact Number : **0266416604**

Contact Email : **jim.clark@planning.nsw.gov.au**

Land Release Data

Growth Centre :

Release Area Name :

Regional / Sub

Consistent with Strategy :

Regional Strategy :

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MDP Number :

Date of Release :

Area of Release
(Ha) :

Type of Release (eg
Residential /
Employment land) :

No. of Lots : 0

No. of Dwellings : 0
(where relevant) :

Gross Floor Area : 0

No of Jobs Created : 0

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

If No, comment : **The Department of Planning & Environment Code of Practice in relation to communication and meetings with Lobbyists has been complied with to the best of the Region's knowledge.**

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

If Yes, comment : **Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other departmental officers and lobbyists concerning this proposal.**

Supporting notes

Internal Supporting Notes :

External Supporting Notes : **Planning proposal involves the amendment of Port Macquarie Hastings LEP 2011 by:**

- adding an additional "aim" to the LEP concerning connectivity and movement corridors;
- adding extractive industries as a permissible use in RU2 Rural Landscape and RU3 Forestry Zones, and agriculture as a permissible use in the RU3 zone;
- clarifying permissibility of home-based child care in bushfire-prone areas;
- allowing surfclubs to display advertising signs;
- clarifying the wording of the clause relating to development near zone boundaries;
- providing the option to apply tree preservation provisions to R5 Large Lot Residential and environmental zones;
- permitting land care facilities and an animal pound on Council depot land;
- correcting 3 land description errors in the heritage schedule;
- zoning changes at Logans Crossing (new R5 zone to cover existing dwellings); Kew (extension to B4 Mixed Use zone); and Laurieton (B4 zone over a registered club);
- aligning zone boundaries with cadastre at Diamond Drive, Port Macquarie; and
- increasing the permissible height limit at Westport Park to accommodate tall marquees.

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 proposed outcomes of the planning proposal**

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

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

Comment : **The amendments proposed to Port Macquarie Hastings are adequately described**

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

1.1 Business and Industrial Zones

1.2 Rural Zones

1.3 Mining, Petroleum Production and Extractive Industries

2.2 Coastal Protection

2.3 Heritage Conservation

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

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 64—Advertising and Signage

SEPP (Mining, Petroleum Production and Extractive Industries) 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? **Yes**

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

"Thumbnail" maps are provided in the planning proposal document. Full-size maps are included as attachments and are appropriate for public exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

"Low impact" proposal. Council has suggested a 14-day exhibition period which is 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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal by December 2015 (7 months). To fit the 3 monthly thresholds for completion of proposals, it is considered that a 9 month time frame would be appropriate.

Delegation.

Council has requested delegation to finalise the proposal and an evaluation checklist has been provided. As the issues in this proposal are all relatively minor, delegation to Council would be appropriate.

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Overall Adequacy

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.

Proposal Assessment

Principal LEP:

Due Date :

Comments in
relation to Principal
LEP :

Port Macquarie Hastings LEP 2011 was notified 23 February 2011. This proposal amends PMH LEP 2011.

Assessment Criteria

Need for planning
proposal :

The planning proposal does not result from any strategic study or report. As the proposal intends to make changes to the principal plan, an amendment such as this is the best way to achieve such changes.

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Consistency with strategic planning framework :

There is no inconsistency with the Council's strategic planning (HUGS 2010-2031) or the Mid North Coast Regional Strategy.

Assessment against SEPPs and section 117 directions has been made against each item.

ITEM 1. Addition of a new "aim" - "to provide effective and efficient connectivity and movement corridors within and between subdivisions"

Council suggests that an additional aim will give more weight to movement corridors and connectivity.

The additional aim seems unnecessary as its objective can reasonably be deduced from existing aims - however the aims of a LEP have been for a council to determine. The additional aim could therefore proceed.

ITEM 2. "Extractive Industries" be permitted with consent in RU2 Rural Landscape and RU3 Forestry zones and "Agriculture" be permitted with consent also in RU3 zone

This corrects inconsistent and confusing consideration of permissibility of proposals for extractive industries in these zones, having regard to the requirements of the Mining SEPP, which effectively allows extractive industry wherever agriculture is permitted. Resolving these anomalies is supported.

ITEM 3. "Home based child care" be permitted with consent (instead of without consent) in zones RU5, R1, R2, R3, R4, R5, B1, B2, B3 and B4

The Codes SEPP treats home based child care as exempt development except on bush-fire prone land. The current PMH LEP allows the use without consent, and there is therefore no trigger to require consent in bush-fire prone areas.

As much of the Council's urban area is or adjoins fire prone land, Council requests that home based child care now require consent.

Effectively this preserves the avoidance of a consent requirement in the zones affected, because the Codes SEPP will over-ride any consent requirement, except on bushfire prone land. This amendment is acceptable and there are no inconsistencies involved with either the Codes SEPP or section 117 direction 4.4,(provided the NSW Rural Fire Service is consulted).

ITEM 4. "Signage" be permitted with consent in RE2 Private recreation zone

This part of the proposal arose from requests by surf clubs to be able to place advertising signs on their buildings to raise revenue. Council has provided details of five surf clubs (where it is Trust Manager of Crown land) and has raised no issues with extending this suggestion to other clubs.

The problem is that the RE2 zone applies to more than surf club sites. However Council in maintaining a consent role can consider proposed signs on their merits.

As Council is trust manager for Crown lands, Council will need to consult with the Crown Lands Division on the proposal.

Clause 10(1) of SEPP 64 prohibits advertisements on land in a number of zones (including "open space"), but not "private recreation". On this basis, there is no inconsistency with SEPP64. However as Council's planning proposal documents are silent on this issue, Council should include a comment as a footnote to its treatment of this part of the proposal.

ITEM 5. Clarification of provisions in LEP clause 5.3 Development near Zone Boundaries

Council considers there is confusion in the use of the words "zone boundary shared" between the RU1, RU2 and RU3 zones in clause 5.3(2)(a) because it could extend the provision to zones other than the zones specified. Council is suggesting the words "involving only the boundaries" ..."

This is a minor amendment to a provision that Council itself originally drafted and is not inconsistent with the SI Order. It is therefore acceptable.

ITEM 6. Adopting clause 5.9(9) from the SI Order to introduce provisions requiring consent for clearing to apply in zones R5 Large Lot Residential and Zones E2, E3 and E4

The native vegetation in these four zones is often environmentally sensitive.

Adoption of this clause (which is common in most other North Coast LEPs) requires consent for clearing despite exemptions which may occur in the Native Vegetation legislation.

These should be considered in consultation with the Environmental Protection Authority.

ITEM 7. Additional Permitted Use in Council Depot, John Fraser Place, Port Macquarie

Council wishes to add a local land-care storage area and an animal pound to uses permissible on its Depot Site which is zoned SP2 Infrastructure (Public Utility Undertaking). Council considers these uses do not fall within the definition of Public Utility Undertaking. This requires an addition to Schedule 1 of the LEP and to the Additional Permitted Uses (APU) Map. This is a minor matter and is acceptable.

"Animal pound" is not a defined use in the SI Dictionary. This is a drafting issue which can be resolved by Council later in consultation with Parliamentary Counsel.

ITEM 8. Incorrect Land descriptions and Mapping of 3 heritage items

The former police house and Courthouse, as well as the Uniting Church in Hastings Street Wauchope are incorrectly mapped and / or land descriptions are wrong. Correction requires amendment to Schedule 5 of the LEP and to the Heritage Map.

ITEM 9. Extended R5 Large Lot Residential Zone at Lot 2 DP 599599 Logans Crossing Road Logans Crossing

A 2ha extension to the R5 zone is proposed to recognise two existing dwellings (one unauthorised) on a flood-free portion of Lot 2. The R5 zone is confined to the flood free land to prevent subdivision of the remainder of the lot. The R5 zone is consistent with neighbouring zoning to the east.

This results in inconsistency with section 117 direction 1.2 in that it rezones rural land for a residential purpose. However the inconsistency is justified as of minor significance.

ITEM 10. Extension of B4 Mixed Use zone on Part Lot 2 DP1171190 Nancy Bird Walton Drive, Kew (currently zoned RU1 and owned by Council as operational land) to cover a public toilet, part of a carpark and an old restaurant building, suitable for re-use

As well as the zoning change this proposal necessitates changes to the lot size, floor space ratio and height of buildings maps.

The proposal is inconsistent with both section 117 directions 1.2 (as it rezones rural land to an urban use) and 1.1 as it creates a new business zone outside the terms of an agreed strategy. However the land is already occupied by urban uses and adjoins an existing B4 zone. The inconsistency is justified as of minor significance.

ITEM 11. Rationalisation of zone boundaries between R1 General Residential and RE2 Private Recreation Zones at Diamond Drive Port Macquarie

The zone boundaries on the LEP maps do not follow property boundaries as the subdivision decisions pre-dated computerised mapping. These discrepancies cause difficulties in property transactions and Council proposes to correct them.

As well as the zoning change this proposal necessitates changes to the lot size, floor space ratio and height of buildings maps.

The proposal is inconsistent with section 117 direction 3.1 (as it alters the configuration of residential land and slightly reduces it in area). However the proposal corrects mapping discrepancies and the inconsistency is justified as of minor significance.

ITEM 12. Alteration of Zoning at Lake Street Laurieton from B2 to B4 to allow wider range of commercial uses

Laurieton Services Club is considering developing seniors housing on its own land and also land proposed to be acquired from the Crown. However the B2 zone does not allow seniors housing - the B4 Mixed Use zone does allow this use. Part of the land is flood prone, and the development will need to comply with local flood provisions.

Given the land is already zoned for business use, no inconsistency with section 117 direction 4.3 (Flood Prone Land) arises. Clause 7.4 of PMH LEP 2011 (Probable Maximum Flood) sets special provisions for seniors housing (as "residential care facilities") on flood prone land. As there is no specific proposal at present, any issue in this regard, (including consultation with the Office of Environment and Heritage) can be determined by Council at development stage.

As Crown Land is involved however, Council will need to consult with the Crown Lands Division.

ITEM 13. Increase in Height limit at Westport Park to accommodate tall marquees

Westport Park is Crown Land managed by Council. The current height limit of 8.5m does not accommodate tall marquees which often use the site, necessitating each time a variation under clause 4.6 of the LEP. Council wishes to increase the limit on the site to 11.5m by an amendment to the Height of Buildings Map.

As the land is owned by the Crown, the Crown Lands Division will need to be consulted.

Environmental social
economic impacts :

The proposals relate primarily to land which is already developed or occupied and where additional environmental impact would be minimal.
Any impact arising from permissibility of extractive resources would be assessed at development stage.

Social and economic impacts would be variable - increased development in some areas may have negative impact on nearby housing or business, but this is balanced by opportunities for further development which would have a positive impact.

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Assessment Process

Proposal type : **Minor** Community Consultation Period : **14 Days**

Timeframe to make LEP : **9 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Department of Trade and Investment
NSW Rural Fire Service
Other**

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 PP2014-15.1 - LEP 2011 (Amend 34) - Misc Amendments.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
1.2 Rural Zones
1.3 Mining, Petroleum Production and Extractive Industries
2.2 Coastal Protection
2.3 Heritage Conservation
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
6.3 Site Specific Provisions**

Additional Information : **It is recommended that**

- 1. The planning proposal should proceed as a 'routine' planning proposal.**
- 2. A community consultation period of 14 days is necessary.**
- 3. The planning proposal is to be completed within 9 months.**

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4. The planning proposal be amended prior to exhibition to consider any requirements of clause 10 of State Environmental Planning Policy No 64 – Advertising and Signage re item 4 of the planning proposal;

5. A delegate of the Secretary agree that the inconsistencies of the proposal with S117 Directions 1.1, 1.2 and 3.1 are justified in accordance with the terms of the directions.

6. The RPA consult with the NSW Rural Fire Service concerning the alteration to provisions relating to home-based child care in bushfire-prone areas (Item 3), to resolve any inconsistency with S117 direction 4.4 Planning for Bushfire Protection;

7. The RPA consult with the Environmental Protection Authority concerning the proposal to add clause 5.9(9) from the Standard Instrument to Port Macquarie LEP 2011 (item 6);

8. The RPA consult with the Crown Lands Division of NSW Trade and Investment on the proposals to allow advertising signage on surf club buildings (Item 4); rezone Crown Land at Lake Street Laurieton from B2 to B4 (Item 12); and increase the height limit applying to Westport Park (Item 13); and

9. A written authorisation to exercise delegation be issued to Port Macquarie Hastings Council for this planning proposal

Supporting Reasons :

Each of the items in this planning proposal is minor in nature. It proposes improvements/ updates to the planning regime in particular areas and is unlikely to result in substantial community concern.

In view of the minor nature of the proposed amendments delegation to Council to finalise the proposal is appropriate.

Signature:



Printed Name:

Craig Diss

Date:

12/5/15