

Port Macquarie Hastings LEP 2011 Draft Amendment No 20 rezoning of 18 John Oxley Drive, Port Macquarie.

Proposal Title :	Port Macquarie Hastings LEP 2011 Draft Amendment No 20 rezoning of 18 John Oxley Drive, Port Macquarie.		
Proposal Summary :	The planning proposal seeks to amend the Port Macquarie Hastings LEP 2011 to rezone lots 12 and 13 DP 1088869, 18 John Oxley Drive from RU1 Primary Production to B5 Business Development to enable hardware and building supplies and bulky goods premises to be developed on the land. The planning proposal also intends to rezone the adjoining road reserve from RU1 to R1 General residential to remove slivers of rural zoned land from the urban area. The road reserve adjoins existing residentially zoned land.		
PP Number :	PP_2012_PORTM_007_00	Dop File No :	12/15166

Proposal Details

Date Planning Proposal Received :	20-Sep-2012	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 :	Spot Rezoning		

Location Details

Street :	18 John Oxley Drive		
Suburb :	Port Macquarie	City :	Port Macquarie
		Postcode :	2444
Land Parcel :	Lots 12 and 13 DP 1088869 and adjoining road reserve		

DoP Planning Officer 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
MDP Number :		Date of Release :	
Area of Release (Ha)	0.00	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	2	No. of Dwellings (where relevant) :	0
Gross Floor Area :	19,995.00	No of Jobs Created :	234
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 :

External Supporting Notes : The land is located outside the agreed growth area boundary identified by the Mid North Coast Regional Strategy. However the John Oxley Drive Structure Plan, which is referenced by the planning proposal, addresses the necessary matters for the consideration of a variation to the growth area boundary.

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 Port Macquarie Hastings LEP 2011 to permit hardware and building supplies and bulky goods retail premises on Lots 12 and 13.

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 rezone Lots 12 and 13 from RU1 Primary Production to B5 Business Development and rezone the adjoining road reserve from RU1 to R1 General Residential.

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

3.4 Integrating Land Use and Transport

* May need the Director General's agreement

4.3 Flood Prone Land

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?

N/A

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 shows the proposed changes to the Land Zoning Map, Lot Size Map and Height of Buildings Map of the Port Macquarie Hastings LEP 2011 for the subject land. This approach to the mapping is appropriate and clearly shows the proposed changes to the planning controls on the subject land. The final LEP maps which will comply with the Standard LEP Maps Technical Requirements can be prepared prior to legal drafting of the proposed amendment.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

The RPA proposes a 28 day consultation period to enable the adjoining residents sufficient time to review the planning proposal and the proposed draft development control plan (DCP) provisions. The RPA intends to liaise with the residents of the adjoining retirement village in its preparation of the DCP.

Given that the Department received 14 submissions opposing and/or raising concerns with the proposal for a bulky goods and hardware development on the subject land during the exhibition of the draft Structure Plan, a consultation period of 28 days is considered 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.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Port Macquarie Hastings LEP was made in November 2011. This planning proposal seeks an amendment to the Port Macquarie Hastings LEP 2011.**

Assessment Criteria

Need for planning proposal :

The planning proposal has arisen from the RPA's "Port Macquarie Hastings Urban Growth Management Strategy 2010-2031" (UGMS). The UGMS identified a need to "Consider potential for bulky goods development at Lindfield Park Road and between the old and new Oxley Highway alignments". The subject land is located within the area between the old and new Oxley Highway alignments.

The "John Oxley Drive Precinct Structure Plan" constitutes the planning investigation of this area and concludes that the subject land is suitable for investigation for business purposes. The Structure Plan also identifies other land parcels in the precinct which are suitable for business investigation and residential development. The draft Structure Plan was reviewed by the Department and in April 2012 Council was advised that; "To implement the finalised Structure Plan, it could be submitted to the Director General of Planning and Infrastructure requesting that it be approved as an amendment to Council's local growth management strategy. Alternatively, any future planning proposal could be accompanied by the Structure Plan when it is submitted to the Gateway".

The Council has taken both courses of action.

The proposal to rezone the subject land and apply appropriate development controls through amendments to the maps in the LEP is the most appropriate means of achieving the intent of the planning proposal.

Net community benefit

The planning proposal references an economic impact assessment (EIA) for the proposed site prepared by MacroPlan Dimasi. The EIA identified a 14,200 square metre gap for bulky goods retailing floorspace which could be filled by the proposed development. While this demonstrates a particular commercial need it does not constitute a net community benefit.

The development of the subject land with a proposed hardware and bulky goods retail centre will provide increased retail choice and employment opportunities. The EIA identifies that there will be a 5% loss of jobs from competing business however a positive net increase in employment will result.

The site previously accommodated the Port Gateway Residential Park. This park provided affordable accommodation in a range of older style moveable dwellings. The owner closed the Park down in August 2012 and has assisted residents to find alternative accommodation. The affordable accommodation provided by this park is unlikely to be easily replaced in the Port Macquarie area. Land to the south of the subject site is identified for future residential development however it is not expected to yield the same amount of affordable accommodation as the Park did. The decision to close the Park predates the current planning proposal by 12 months.

It is considered that the current proposal does not have a clear net community benefit, however neither does it appear to pose a significant detriment to the community.

Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The subject land is not located within the agreed growth area boundary of the MNCRS. The agreed growth areas identified in the MNCRS define the land available for investigation and potential release for urban purposes. The Strategy provides that land outside the growth area boundary may be considered for rezoning if it is demonstrated through a local growth management strategy that a reasonable adjustment to the growth area boundary is desirable and consistent with the MNCRS (page 18). The Strategy requires that consideration of a variation must have regard to the efficient use of infrastructure and services, avoidance of significance environmental constraints and natural resources, and reinforcement of the regional settlement hierarchy. The planning proposal does not address these issues however the "John Oxley Drive Precinct Structure Plan" which was submitted concurrently to the Department does.

The Structure Plan concludes that other than road infrastructure upgrading for the site, infrastructure is available and capable of servicing future development in the precinct. The site is affected by flooding and is bushfire prone. Storm water drainage will be an issue which requires some further investigation. The economic impact assessment submitted with the planning proposal concludes that the concept development of a hardware and bulky goods retail development will not have a significant adverse impact on the hierarchy of regional centres.

Since the proposal is being considered as a minor variation to the agreed growth area boundary it is not necessary to address the sustainability criteria contained in the MNCRS.

The proposal to rezone the subject land to B5 Business Development in order to enable bulky goods retailing is consistent with the action of the MNCRS which requires "opportunities and development potentials of commercial centres to be explored by councils and identified in local growth management strategies". The land is identified for consideration for bulky goods retail in the "Port Macquarie Hastings Urban Growth Management Strategy 2011-2031" and is therefore consistent with this action of the MNCRS. The location of the site and the proposed B5 zone is also consistent with the action of the MNCRS that requires Council to identify opportunities for bulky goods style retailing in accessible locations in or near commercial centres, and restrict this form of retailing in industrial zones.

Port Macquarie Hastings Urban Growth Management Strategy 2011-2031

The proposal is consistent with the RPA's "Urban Growth Management Strategy 2010-2031" (GMS) The GMS identified the need to consider the potential for bulky goods development at Lindfield Park Road and between the old and new Oxley Highway alignments. The subject land is between the old and new Oxley Highway alignments.

SEPPs

The planning proposal does not identify any inconsistencies with any state environmental planning policies and none are considered to exist.

S117 Directions.

The planning proposal identifies the following S117 directions as being applicable to the proposal 1.1 Business and Industrial Zones, 3.4 Integrating Land Use and Transport, 4.3 Flood Prone Land, 5.1 Implementation of Regional Strategies and 6.3 Site Specific Provisions. The planning proposal does not identify any inconsistencies with any of these directions.

It is considered that the following 117 Directions are applicable to the proposal, 1.1 Business and Industrial zones, 1.2 Rural Zones, 1.5 Rural Land, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 2.4 Recreation Vehicle Areas, 3.1 Residential Zones, 3.2 Caravan Parks and Manufactured Home Estates, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bush Fire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements, 6.2 Reserving Land for Public Purposes, 6.3 Site Specific

Provisions.

Of the above s117 Directions the proposal is inconsistent with Directions 1.2, 4.1, 4.3, 4.4, 5.1.

Direction 1.2 Rural Zones is relevant to the proposal. The Direction states that a planning proposal shall not rezone land from a rural zone to a residential, business or industrial zone. The planning proposal aims to rezone the subject land from RU1 Primary Production to B5 Business Development and R1 General Residential.

The Direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is justified by a strategy, a study, or is of minor significance. The consideration of the subject land for rezoning for bulky goods retailing use was raised in the GMS which was approved by the Director General on 5 May 2011. The "John Oxley Drive Precinct Structure Plan" further addressed the planning issues associated with the rezoning of the subject land. The Department agreed to the draft Structure plan constituting an amendment to the GMS (30 April 2012). The Structure plan has been submitted in support of the planning proposal, and concurrently, as an amendment to the GMS. It is therefore considered that the inconsistency with the direction is justified in accordance with the terms of the direction. The rezoning of the adjoining road reserve from rural to residential is intended to achieve consistency in zonings for adjoining lands, is consistent with the Department's practice note PN10-001 and is considered to be of minor significance.

Direction 3.4 Integrating Land Use and Transport is relevant to the proposal. The direction provides that a draft plan must locate zones for urban purposes in a manner which is consistent with the aims objectives and principles of "The Right Place for Business and Services – Planning Policy" (DUAP 2001). The proposal seeks to establish a B5 Business Development zone to enable a hardware and building supplies and bulky goods retail development outside of the agreed growth area boundary of the MNCRS.

"The Right Place for Business and Services – Planning Policy" (DUAP 2001) states that when bulky goods outlets cannot be located in centres they should be located in regional clusters to help moderate travel demand and allow for public transport accessibility, and specifies matters that should be addressed for the creation of a new cluster. The planning proposal does not address the consistency of the proposal with the direction. Until such time as a traffic impact and accessibility assessment has been completed it is not possible to determine whether the proposal is consistent with the direction.

Direction 4.1 Acid Sulfate Soils is relevant to the draft plan. 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 draft plan proposes to rezone land from RU1 Primary Production to B5 Business Development. The land contains class 5 acid sulfate soils. Class 5 is the lowest risk category for acid sulphate soils and it is considered that the existing acid sulfate soil provisions in the LEP are sufficient to address any issues that may arise at development application stage. The inconsistency of the plan with the direction is therefore considered to be of minor significance.

Direction 4.3 Flood Prone Land is relevant to the draft plan. The direction provides that a draft plan must not rezone land within a flood planning area to a residential or business zone.

The draft plan proposes to rezone land below the 1 in 100 year flood level to B5 Business Development. 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. The planning proposal does not address the flood prone nature of the site, nor the level of fill needed to mitigate flood affects. The proposal instead states that any impact can be addressed at development application stage. The Structure plan

identifies the need for an investigation where development is proposed on flood liable land to ensure there are no adverse impacts from filling to mitigate flooding issues on adjoining land. It is suggested that this level of investigation should be conducted prior to the rezoning of the land to determine whether any inconsistency with the direction is of minor significance.

Direction 4.4 Planning for Bushfire Protection is relevant to the draft plan. The direction provides that the RPA must consult with the Commissioner of the NSW Rural Fire Service, and 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 inconsistency of the proposal with the direction cannot be resolved.

Direction 5.1 Implementation of Regional Strategies is relevant to the proposal. The Direction states that the proposal must be consistent with the regional strategy. The subject land is outside of the agreed growth area boundary of the Mid North Coast Regional Strategy for the reasons discussed previously in this report.

The direction provides that a planning proposal may be inconsistent with the direction if the inconsistency is of minor significance or the proposal achieves the overall intent of the strategy. It is considered that since justification for a variation to the agreed growth area boundary is contained in the Structure plan, that the inconsistency is of minor significance.

The proposal is otherwise consistent with the S117 Directions identified above and with the remaining directions.

Environmental social economic impacts :

The site is cleared of native vegetation and has been used for a caravan park. The planning proposal will not have any direct adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

The proposed rezoning will not have a direct impact on the built environment however the planning proposal contains a draft concept plan for the development of site should the rezoning occur. The proposed development will have an impact on the adjoining seniors housing development from possible noise, lighting, overshadowing, privacy etc. The RPA intends to address these issues in a DCP which will be prepared in conjunction with the residents of the seniors housing development. This approach is appropriate.

The redevelopment of the land will result in a loss of affordable housing. The site previously accommodated the Port Gateway Residential Park. This park was closed in August 2012. The development of the land for business uses means that the affordable housing cannot be directly replaced.

The planning proposal has given consideration to the economic impacts of the proposal. The RPA proposes an independent review of the economic impact analysis prepared by the proponent. An independent economic review is warranted given that the land is located outside of the agreed growth area boundary of the MNCRS and in order to assess the suitability of a variation to the boundary, consideration of the impact on the hierarchy of neighbouring centres must be undertaken.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 Month	Delegation :	DG
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Rural Fire Service Transport for NSW - Roads and Maritime Services		

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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. :

Flooding

Economic

Other - provide details below

If Other, provide reasons :

1. A traffic impact and accessibility study that also considers the aims, objectives and principles of "The Right Place for Business and Services – Planning Policy" (DUAP 2001)

2. An independent review of the economic impact assessment prepared by MacroPlan Dimasi dated August 2012.

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
Dept of Planning andInfrastructure, to - 18 John Oxley Drive.pdf	Proposal Covering Letter	Yes
Planning Proposal PP2011-0007.02.pdf	Proposal	Yes
Appendix A - 6380_LEP2011_AM18_SID_013D_020_20120914.pdf	Map	Yes
Concept plan for hardware and bulky goods 18 John Oxley Drive.pdf	Drawing	Yes
Letter from Department 30 April 2012 concerning John Oxley Drive Structure Plan.pdf	Study	No
Appendix D Economic Impact Assessment MacroPlan Dimasi.pdf	Study	Yes
John_Oxley_Drive_Precinct_Structure_Plan.pdf	Study	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**
3.4 Integrating Land Use and Transport
4.3 Flood Prone Land
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. That the following studies are completed and included with the material to be placed on exhibition with the planning proposal;**

Port Macquarie Hastings LEP 2011 Draft Amendment No 20 rezoning of 18 John Oxley Drive, Port Macquarie.

- a. A flood impact assessment and assessment of the impact on storm water drainage from development of Lots 12 and 13 DP 1088869
 - b. A traffic impact and accessibility study that also considers the aims, objectives and principles of "The Right Place for Business and Services – Planning Policy" (DUAP 2001)
 - c. An independent review of the economic impact assessment prepared by MacroPlan Dimasi dated August 2012.
3. The material to be placed on exhibition is to be forwarded to the Regional Director, Northern Region of the Department of Planning and Infrastructure for review prior to exhibition.
4. The planning proposal is to be completed within 12 months.
5. That a community consultation period of 28 days is necessary.
6. That the RPA consult with the following State Agencies
- a. Roads and Maritime Services
 - b. NSW Rural Fire Service (prior to exhibition as required by S117 Direction 4.4)
 - c. NSW Office of Environment and Heritage for comment on the flood study.
7. It is recommended that a delegate of the Director General agree that the inconsistency of the proposal with S117 Directions 1.2, 4.1, and 5.1 are justified in accordance with the provisions of the direction.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal is consistent with the broad strategic planning framework for the site however further investigation of specific site constraints and potential development impacts are necessary.
2. The inconsistencies of the proposal with the strategic planning framework are of minor significance.

Signature:



Printed Name:

JIM CLARK

Date:

27 September 2012

