



### Port Macquarie Hastings LEP 2011 - rezoning of land at Dunbogan from E2 Environmental Conservation to E3 Environmental Management.

**Proposal Title :** Port Macquarie Hastings LEP 2011 - rezoning of land at Dunbogan from E2 Environmental Conservation to E3 Environmental Management.

**Proposal Summary :** The planning proposal seeks to amend the Port Macquarie Hastings LEP 2011 to rezone land from E2 Environmental Conservation to E3 Environmental Management. The subject land is located over six separate lots. The lots are privately owned and partly zoned R1 General Residential. Only that part of the land zoned E2 will be rezoned to E3. The R1 zoned part of the land will not change.

**PP Number :** PP\_2013\_PORTM\_001\_00      **Dop File No :** 13/03064

#### Proposal Details

**Date Planning Proposal Received :** 07-Feb-2013      **LGA covered :** Port Macquarie-Hastings

**Region :** Northern      **RPA :** Port Macquarie-Hastings Council

**State Electorate :** OXLEY  
PORT MACQUARIE      **Section of the Act :** 55 - Planning Proposal

**LEP Type :** Spot Rezoning

#### Location Details

**Street :** Camden Head Road and Seaview Ave

**Suburb :** Dunbogan      **City :** Laurieton      **Postcode :** 2444

**Land Parcel :** Lot 6 DP 734429, Lot 7 DP 734429, Lot 8 DP 734429, Lot 21 DP 835388, Lot 1 DP 270065, Lot 1 DP 1055417

#### 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
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	N/A
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	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 : **Council has requested an Authorisation to exercise delegation for the plan making functions in Section 59 of the Act.**

External Supporting Notes :

**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 rezone the subject land, which is currently zoned E2 Environmental Conservation, to address an anomaly in the application of the E2 zone.**

**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 replace the relevant land zoning map which will effectively rezone the subject land from E2 to E3.**

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**Justification - s55 (2)(c)**

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

b) S.117 directions identified by RPA :

**1.5 Rural Lands**

\* May need the Director General's agreement

**2.1 Environment Protection Zones**

**2.2 Coastal Protection**

**4.1 Acid Sulfate Soils**

**4.4 Planning for Bushfire Protection**

**5.1 Implementation of Regional Strategies**

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 71—Coastal Protection**

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 :

**See the assessment section of his report.**

**Mapping Provided - s55(2)(d)**

Is mapping provided? **Yes**

Comment :

**The planning proposal contains maps which show the subject land, the existing zone and the proposed zone. The mapping is adequate.**

**Community consultation - s55(2)(e)**

Has community consultation been proposed? **Yes**

Comment :

**The RPA has identified the proposal as a low impact proposal as it is consistent with the pattern of surrounding land use zones and the strategic planning framework, and presents no issues with regard to infrastructure servicing. A 14 day consultation period is proposed. This is considered to be appropriate.**

**Project Time Line.**

**The planning proposal contains an estimated project time line for completion of the planning proposal. The time line is considered to be realistic and appropriate and it is anticipated that the proposal will be completed in June 2013.**

**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**

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**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 is not the result of a strategic study or report. The planning proposal has arisen from Council's ongoing review of its LEP and the identification of an anomaly in the way the environmental zones have been applied to the subject land.**

**The subject land is predominantly cleared parkland with scattered native coastal trees. Four of the six lots contain an existing dwelling and two lots are part of a community title subdivision and are used in conjunction with the adjacent residential land uses. The land does not contain vegetation which warrants the high level of protection afforded by the E2 zone.**

**The subject land was zoned 7(f1) Environmental Protection – Coastal under the Hastings LEP 2001. The 7(f1) zone was converted to the E2 zone in the 2011 LEP. During exhibition of the PMHLEP 2011, Council received numerous submissions objecting to the E2 zoning over private land. The E2 zone in the PMHLEP is very restrictive, only environmental facilities, environmental protection works, recreation areas, research stations and roads are permitted with development consent in the E2 zone. All other land uses are prohibited. The proposed E3 zone permits a far wider range of land uses including community facilities, dwelling houses, home businesses, horticulture, and places of public worship. In most instances where a submission was received Council reviewed its use of the E2 zone and replaced it with the E3 zone.**

**The zoning of the subject land was not changed from E2 to E3 before the PMHLEP 2011 was made. Recent submissions from the land owners and Council's review of similar land in the locality identified that the E2 zone over the subject land is not consistent with Council's strategic application of the E2 zone over other land in the local government area.**

**The amendment of the land zoning map is the only means of achieving the objective of the planning proposal.**

**A net community benefit will ensue by ensuring the application of the E2 and E3 zones is consistent throughout the local government area.**

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Consistency with strategic planning framework :

**Mid North Coast Regional Strategy (MNCRS).**

The proposed rezoning is not inconsistent with the MNCRS. An environmental protection zone will still apply to the subject land however this E3 zone will be better suited to the vegetation characteristics of the site and the associated residential uses.

**SEPPs**

The planning proposal identifies SEPP 71 – Coastal Protection as being relevant to the proposed rezoning. The proposal is considered to be consistent with the provisions of the SEPP.

**S117 Directions.**

The following 117 Directions are applicable to the proposal, 1.5 Rural Land, 2.1 Environmental Protection Zones, 4.1 Acid Sulfate Soils, 4.4 Planning for Bush Fire Protection, and 5.1 Implementation of Regional Strategies.

Of the above s117 Directions the proposal is inconsistent with Directions 2.1, 4.1 and 4.4.

Direction 2.1 Environmental Protection Zones is relevant to the draft plan. The direction provides that a draft plan must not reduce the environmental protection standards which apply to the land. The planning proposal will rezone the subject land from E2 to E3 and therefore permit a wider range of land uses with consent. However the land is predominantly cleared parkland with scattered native coastal trees and is associated with the surrounding residential land uses. The land does not warrant the higher level of protection provided by the E2 zone. Additionally the land is relatively small in area at 4ha and since the proposal applies only to this area of land, the inconsistency is considered to be of minor significance.

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 E2 Environmental Conservation to E3 Environmental Management. While the E3 zone permits a wider range of land uses with development consent, the change in zoning will not result in a significant intensification in land use. The land will still be subject to a 40ha minimum lot size and the surrounding land is already developed for residential purposes. The land contains only class 5 acid sulfate soils. Class 5 is the lowest risk category for acid sulphate soils and it is considered that the 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 4.4 Planning for Bushfire Protection is relevant to the proposal. The land is located within a bushfire buffer area. 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 remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social economic impacts :

The site is predominantly cleared parkland with scattered native coastal trees and is used for residential purposes. The proposal to alter the zoning from E2 to E3 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 E3 zone permits a wider range of land uses with development consent and therefore future development of the land may occur. Further residential development on the subject land is not necessarily inappropriate given the site adjoins an existing residential area and is used partly for existing residential purposes. Any impact from future development can be adequately addressed through the development application process.

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It is not envisaged that the change of zoning will produce any adverse social or economic impacts. The change of zoning has been sought by the land owners.

**Assessment Process**

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

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

Public Authority Consultation - 56(2)(d) : **NSW Rural Fire 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. :

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
Council cover letter for planning proposal for rezoning of land at Dunbogan.pdf	Proposal Covering Letter	Yes
Minutes of Council meeting concerning planning proposal.pdf	Determination Document	Yes
Resolution of Council to submit planning proposal.pdf	Determination Document	Yes
Site Identification Map _Dunbogan.pdf	Map	Yes
Planning Proposal S55 version.pdf	Proposal	Yes
Draft proposed zoning Map 6380_COM_LZN_014C_020_20130131.pdf	Map	Yes

**Planning Team Recommendation**

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

- S.117 directions: **1.5 Rural Lands**  
**2.1 Environment Protection Zones**  
**2.2 Coastal Protection**

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- 4.1 Acid Sulfate Soils
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies

Additional Information :

It is recommended that;

1. The planning proposal should proceed as a 'routine' planning proposal.
2. The planning proposal is to be completed within 9 months.
3. That a community consultation period of 14 days is necessary.
4. That the RPA consult with the NSW Rural Fire Service (prior to exhibition as required by S117 Direction 4.4)
5. It is recommended that a delegate of the Director General agree that the inconsistency of the proposal with S117 Directions 2.1 and 4.1 are justified in accordance with the provisions of the direction.
6. An Authorisation to exercise delegation to make the plan be issued to the RPA for this planning proposal.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The land does not contain vegetation which warrants an E2 Environmental Conservation zoning and is used in conjunction with residential purposes
2. The current E2 zoning of the land is inconsistent with Council's strategic approach to applying environmental zones in the local government area. The proposed E3 zone is consistent with Council's strategic approach.
3. The inconsistencies of the proposal with the S117 directions are of minor significance.

Signature:



Printed Name:

JIM CLARK

Date:

13 February 2013

