

Planning Proposal under section 55 of the EP&A Act

Rezoning of private properties at Dunbogan from E2 Environmental conservation to E3 Environmental Management

Ccl ref: PP2013-0003-0001

DPI ref: PP_2011_PORTM_*

Date: S55 version Jan 2013



PORT MACQUARIE
HASTINGS

Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Draft [under discussion with within] Council	01 December 2012
Lodged with Council	
Reported to Council [sec 55]	12 December 2012
Adopted by Council & referred to Dept of Planning [sec 56 (1)]	12 December 2012, 31 January 2011
Gateway Panel determination [sec 56 (2)]	
Revisions required Yes [] No []. Completed	
Public Exhibition (where applicable) [sec 57]	
For Council review [sec 58 (1)]	
Adopted by Council for final submission & referred to Dept of Planning [sec 58 (2)]	

Council reference: PP[document year]-000[document number]

[Amendment No will initially be blank] Port Macquarie-Hastings LEP 2011 (Amendment No *)

Department of Planning & *
 Infrastructure reference:

Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on 31 January 2013 by the undersigned Council delegate:

Signed 

Name Peter Cameron

Position Group Manager Strategic Planning

2. For section 58 finalisation

This Planning Proposal was endorsed on by Port Macquarie-Hastings Council, or the undersigned Council delegate [delete one]:

Signed _____

Name _____

Position _____

Executive Summary

Content

Proposed amendments to Local Environmental Plans are detailed in a descriptive form within a "Planning Proposal".

Details of the amendments contained in this Planning Proposal {PP2013-0003} are contained in the Planning Proposal. They cover:

- Privately owned land at Dunbogan zoned *E2 Environmental conservation* under Port Macquarie Hastings Local Environmental Plan 2011.
- The affected land is shown in the body of the document.

The nominated sites are partly or wholly zoned E2 Environmental conservation. All properties are in private ownership and Council has consulted directly with affected landowners regarding preparation of a LEP amendment coordinated by Council.

Council has endorsed preparation and submission of the Planning Proposal to the Department of Planning and Infrastructure seeking a Gateway Determination pursuant to section 56 of the *Environmental Planning and Assessment Act, 1979* to amend the zone map series for E2 zoned areas for the nominated properties.

The properties in question have been assessed as having had a higher level of environmental protection zoning applied during transition to the new LEP than is appropriate for privately owned land or than is consistent with the application of environmental protection zoning of other private land in the area.

The proposed amendment is consistent with recent planning by Council in relation to application of environment protection zones.

The Planning Proposal contains statements in relation to the intended changes to the LEP, together with an explanation of provisions that are to be included in the proposed instrument.

Justification for preparation of the planning proposal is set out in Part 3 and draft map sheets intended to give effect to the instrument will be included for exhibition in draft format to indicate the substantive effect of the proposed instrument.

Council requests authorisation to make the plan pursuant to section 59 of the EP& A Act, 1979 and it is intended that the delegation extend to the General Manager.

Community consultation consistent with section 57 of the EP&A Act 1979 and a "Gateway Determination" relating to this Planning Proposal is required.

The proposal is inconsistent with the criteria for a low impact proposal and a 28 exhibition period is proposed.

Further information

Please contact Leanne Fuller on phone 6581 8674.

Table of Contents

Planning Proposal	5
Background	5
Part 1 - Objectives or Intended Outcomes.....	7
Part 2 - Explanation of Provisions	7
Part 3 - Justification	8
Section A - Need for the planning proposal.....	8
Section B - Relationship to strategic planning framework.	8
Section C - Environmental, social and economic impact.....	9
Section D - State and Commonwealth interests.....	9
Part 4 - Mapping	9
Contact Details:.....	14
Appendix A – Evaluation Criteria	14
A. Changes to text	Error! Bookmark not defined.
B. Changes to Map Sheets.....	Error! Bookmark not defined.
Appendix B – Delegated Plan Making Reporting.....	Error! Bookmark not defined.
Appendix C – Site Identification Maps	20
Appendix D – Gateway Determination.....	22
Appendix E – Map Cover Sheet	24
Appendix F –Map Sheets to be adopted.....	26

Planning Proposal

This is a Planning Proposal prepared under section 55 of the *Environmental Planning and Assessment Act 1979*, in relation to a proposed amendment to *Port Macquarie-Hastings Local Environmental Plan 2011*. It will be assessed by Port Macquarie-Hastings Council, the NSW Department of Planning and Infrastructure, and (depending on the Gateway determination) used for public participation on the proposed LEP amendment.

The proposal is consistent with Department of Planning and Infrastructure guidelines including circulars and practice notes, regarding the use and application of environment protection zones.

Port Macquarie Hastings Council is the relevant planning authority pursuant to section 54 of the EP&A Act, 1979.

The Council is seeking authorisation to make the plan and that, in accordance with the advice from the Department of Planning and Infrastructure in relation to delegations, it is proposed that the delegation be exercised by the General Manager.

Background

Proposal To prepare a planning proposal to apply zone *E3 Environmental Management* to the affected land in place of the current zone *E2 Environmental Conservation*, as part of the ongoing review of the new LEP.

Property and Land owner Details	Part Lot 6 DP 734429	LV & MP McCudden
	Part Lot 7 DP 734429	GM Ross & KA Wheeler
	Part Lot 8 DP 734429	D & DM Christensen
	Part Lot 21 DP 835388	PA & JM McCarthy
	Part Lot 1 DP 270065	Community Plan DP270065 (Timbarra)
	Part Lot 1 DP 1055417	PD & BP Atkins

Applicant Details Port Macquarie Hastings Council

Brief history In September 2010, Council endorsed submission of the final draft of the Port Macquarie-Hastings LEP (PMH LEP 2011) based on the NSW Government's Standard Template for LEPs, to the NSW Department of Planning and Infrastructure for finalisation.

The LEP was largely a conversion document rationalising existing planning policy into a new format prescribed by the state government. It was not intended to facilitate significant land use change in the new LEP and while Council staff sought to ensure that the new LEP best reflected local circumstances, the process has inevitably resulted in some inconsistent

changes to planning provisions.

In relation to the land in question at Dunbogan, the result of the new LEP was a change in zone from *7(f1) Environmental protection – Coastal* under Hastings LEP 2001 to zone *E2 Environmental Conservation* under Port Macquarie-Hastings Local Environmental Plan 2011 as this was considered to be the most comparable of the new zones available.

Following recent submissions from a number of landowners at Dunbogan querying an apparent disparity in the application of environmental protection zones between privately owned land off Prince of Wales Drive and land in the vicinity of Seaview Avenue, Council's strategic land use planning staff reviewed the circumstances and LEP provisions applying to properties in the area.

As a result of this review and having regard for the directions of the NSW Department of Planning and Infrastructure in relation to the use and application of environment protection zones, it is apparent that zone *E2 Environmental conservation* is generally not appropriate for privately owned land.

As a result, Council resolved to prepare a planning proposal to apply zone *E3 Environmental Management* to the affected land in place of the current zone *E2 Environmental Conservation*, as part of its ongoing review of the new LEP.

Location Camden Head Road and Seaview Avenue Dunbogan, Laurieton.



Part 1 - Objectives or Intended Outcomes

It is intended to amend Port Macquarie-Hastings Port Macquarie-Hastings Local Environmental Plan 2011 to incorporate map refinements to address an anomaly in the application of zone *E2 Environmental conservation* at Dunbogan during transition to the Standard Instrument LEP in 2011.

Part 2 - Explanation of Provisions

The purpose of the Planning proposal is to amend the Port Macquarie-Hastings Local Environmental Plan 2011 by:

Revoking map Sheets:-

Land Zoning Map LNZ_014C 6380_COM_LZN_014C_020_20120831

Adopting replacement map sheets:-

Land Zoning Map LNZ_014C 6380_COM_LZN_014C_020_201*****

Part 3 – Justification

Section A - Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

The proposal is not the result of any strategic study or report. Instead, it has arisen as a result of Council's ongoing review of the Port Macquarie Hastings LEP 2011.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

There is no other statutory mechanism to give effect to the intended map amendment.

3. Is there a net community benefit?

A net community benefit is identified. The intended outcomes will rectify an inconsistency in application of zone *E2 Environmental conservation* over privately owned land.

Section B - Relationship to strategic planning framework.

1. Is the planning proposal consistent with the objectives and actions contained within the Mid North Coast Regional Strategy 2006-31?

The planning proposal is consistent with the objectives and actions contained within the *Mid North Coast Regional Strategy 2006-31* and within the Mid North Coast Farmland Mapping Project.

2. Is the planning proposal consistent with Council's Community Strategic Plan and Urban Growth Management Strategy 2010 - 2031?

The planning proposal is consistent with Council's *Community Strategic Plan and Urban Growth Management Strategy 2010-31*.

3. Is the planning proposal consistent with applicable state environmental planning policies?

SEPP 71 Coastal Protection is relevant.

The SEPP requires consideration of the aims and objectives of the SEPP, and a range of other matters including public access to and along the coastal foreshore, the suitability of development, scenic qualities, measures to conserve animals, fish and wildlife, reduce land use and water based conflicts, preservation of heritage and cultural archaeology, the means to encourage compact towns and cities and the cumulative impacts of the proposed development when preparing a draft local environmental plan relating to land within the coastal zone.

Having regard for these matters, the nature of the draft LEP and the scope of land uses permissible in zone *E3 Environmental Management*; the Planning Proposal is consistent with the aims and general provisions of the SEPP.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The relevant section 117 directions are:

Section 117 Direction 2.1 Environment Protection Zones is relevant. The Planning proposal reduces the environmental protection standards currently applying to the land and is inconsistent with the direction.

However, it is considered that it is not appropriate for this land to remain contained within the highest level of environment protection outside National Parks and Reserves, due to the nature of ownership and current use. Instead it is proposed to use zone E3 Environmental Management which is recommended for land where there are special ecological or aesthetic attributes or environmental processes that require careful management and uses compatible with these values.

Section 117 direction 2.2 Coastal Protection is relevant. The Planning Proposal is consistent with the Direction.

Section C - Environmental, social and economic impact.

1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no critical habitat within the Council area.

The land within the current E2 zone contains a mixture of coastal vegetation. Existing dwellings are generally sited outside of the environmental protection area which provides scope to ensure future land uses do not significantly disturb the environmental protection area.

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

It is proposed to retain the environmental status of the land whilst recognising that special management, weed control, low impact or limited development that does not have an adverse impact on the environmental values of the land, may be appropriate with consent.

3. How has the planning proposal adequately addressed any social and economic effects?

There will be no adverse social effects. Adverse economic effects are considered unlikely.

Section D - State and Commonwealth interests.

1. Is there adequate public infrastructure for the planning proposal?

The planning proposal is unlikely to result in any demand for additional public infrastructure.

2. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Subject to a Gateway Determination, relevant agencies will be consulted.

Part 4 – Mapping

Current zoning of all properties is part zone *E2 Environmental Conservation* and part zone *R1 General residential*. It is proposed to convert that part of each of the relevant lots from zone *E2 Environmental Conservation* to zone *E3 Environmental Management*.

No other map changes are considered necessary i.e. no change to current development standards including floor space ratio, height of building and minimum lot size is proposed.

Relevant map sheets have been prepared and included with the Planning Proposal. No change to the LEP text is proposed.

The following map sheets are proposed to be revoked:

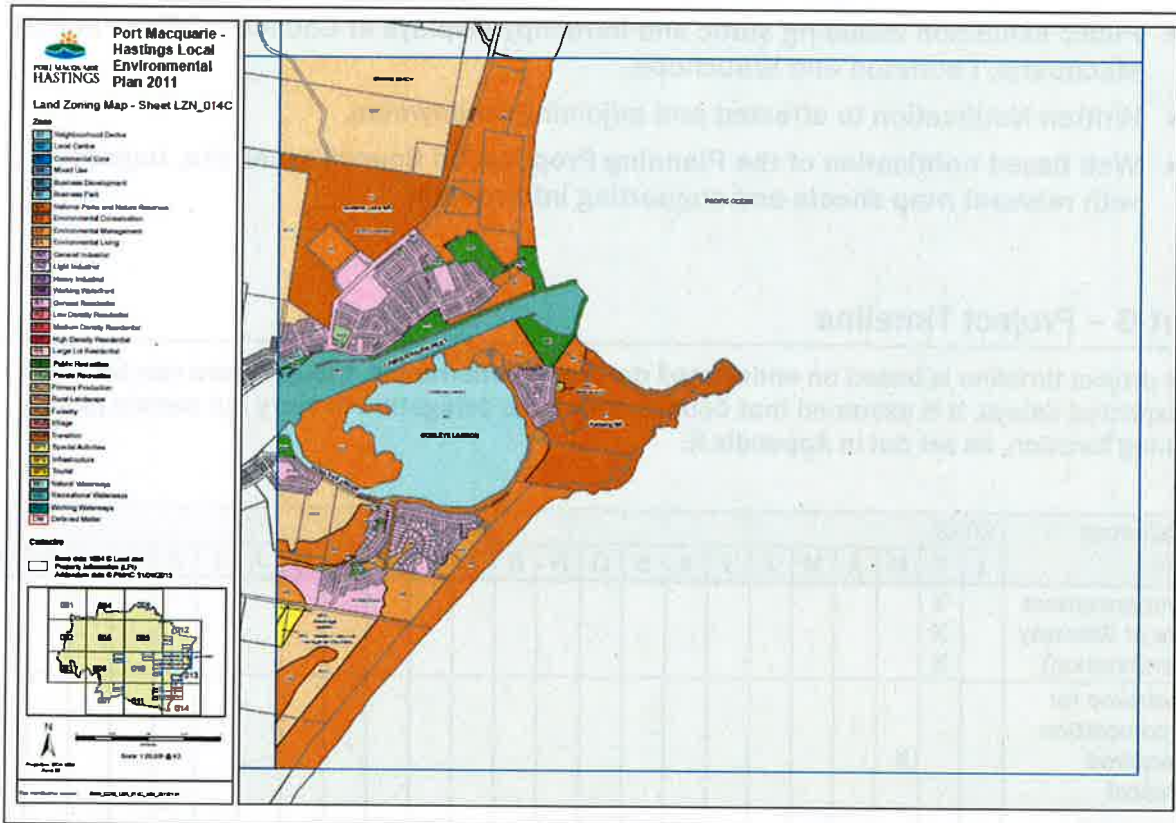
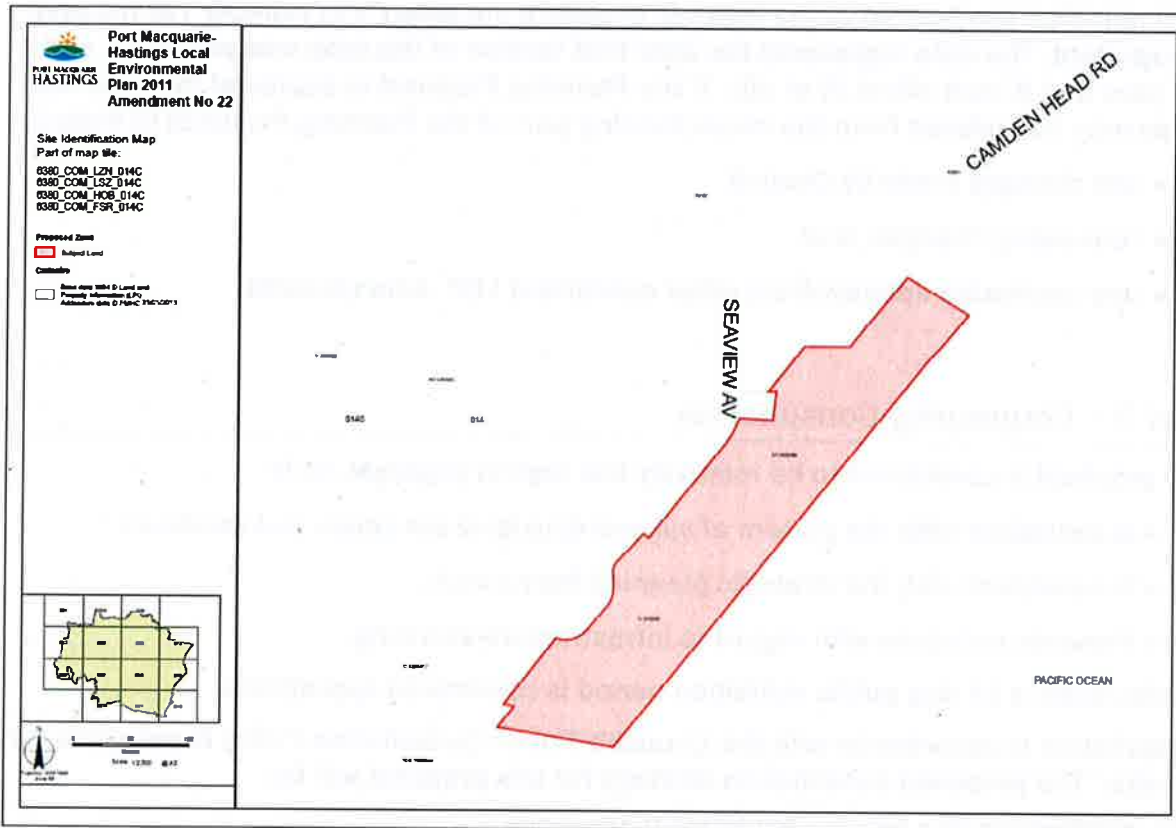
Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map LZN_014C	6380_COM_LZN_014C_020_20120831	

The following map sheets are proposed to be adopted:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map LZN_014C	6380_COM_LZN_014C_020_201*	

Note: The Map Sheet Identifiers will be updated with dates when the sheets are prepared.

These map sheets may need to be updated prior to finalisation, to incorporate separate amendments that may have commenced since the map sheets were prepared. Such changes have no significance to this Planning Proposal.



Note that while these maps may appear like the legal maps, the only LEP maps that have any legal status are those listed and viewable on the NSW Legislation website. The

map name (at the bottom of the legend), including the date (“YYYYMMDD”) at the end, is important. The date represents the date that version of the map was prepared, and the date that it took effect (if at all). If the Planning Proposal is approved then the final maps may be updated from the maps forming part of the Planning Proposal to include:

- any changes made by Council
- formatting changes, and
- any applicable updates from other concurrent LEP amendments.

Part 5 – Community Consultation

The proposal is considered to be relatively low impact proposal, as it:

- Is consistent with the pattern of surrounding land use zones and landuses,
- Is consistent with the strategic planning framework,
- Presents no issues with regard to infrastructure servicing.

On this basis a 14 day public exhibition period is considered appropriate.

Consultation in accordance with the Council's Public Consultation Policy is proposed for the site. The proposed consultation strategy for this proposal will be:

- Notification in a locally circulating newspaper.
- Public exhibition including static and hardcopy displays at Council's Offices in Port Macquarie, Laurieton and Wauchope.
- Written Notification to effected and adjoining landowners.
- Web based notification of the Planning Proposal on Council's website, together with relevant map sheets and supporting information

Part 6 – Project Timeline

This project timeline is based on anticipated dates and timeframes, though there can be unexpected delays. It is assumed that Council does have delegation to carry out certain plan making function, as set out in Appendix A.

Anticipated dates	2013						2014																	
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Commencement (date of Gateway determination)		X																						
Timeframe for the completion of required technical information			X																					

Anticipated dates	2013						2014						2014											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)			X																					
Commencement and completion dates for public exhibition period			X	X																				
Dates for public hearing (if required)																								
Timeframe for consideration of submissions				X	X																			
Timeframe for the consideration of a proposal post exhibition					X	X																		
Date of submission to the department to finalise the LEP																								
Date Council will make the plan (if delegated)						X																		
Date Council will forward to the department for notification.						X																		

Contact Details:

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Attachment A – Evaluation criteria for the delegation of plan making functions

Local Government Area:	PORT MACQUARIE HASTINGS COUNCIL		
Name of draft LEP:	PORT MACQUARIE-HASTINGS LEP 2011 (Amendment No.		
Address of Land:	124 Camden Head Rd, DUNBOGAN NSW 2443 being LOT: 6 DP: 734429 126 Camden Head Rd, DUNBOGAN NSW 2443 being LOT: 7 DP: 734429 128 Camden Head Rd, DUNBOGAN NSW 2443 being LOT: 8 DP: 734429 6 Seaview Avenue, DUNBOGAN NSW 2443 being LOT: 21 DP: 835388 Pindari Drive DUNBOGAN NSW 2443 being LOT: 1 DP: 270065 Dicks Hill DUNBOGAN NSW 2443 being LOT: 1 DP: 1055417		
Intent of draft LEP:	To amend the Port Macquarie-Hastings LEP 2011 to incorporate map alterations to address an anomaly in the application of zone E2 Environmental conservation over privately owned land at Dunbogan during transition to the standard instrument LEP in 2011. Council proposes to recognise the private nature of the land tenure while also ensuring adequate protection of the special aesthetic and environmental attributes of this coastal strip by converting the land to zone E3 Environmental management.		
(NOTE – where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department
	Y/N	Not relevant	Agree Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y		

Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?		NA		
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?		NA		
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?		NA		
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		NA		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		NA		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		NA		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		NA		
Is the planning proposal proposed to rectify an anomaly in a classification?		NA		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		NA		
Will the draft LEP discharge any interests in public land under section 30 of the <i>Local Government Act, 1993</i> ?		NA		

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?		NA		
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Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?		NA		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?		NA		
Spot Rezonings	Y/N			
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N			
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	Y			
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N			
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?		NA		
Does the planning proposal create an exception to a mapped development standard?	N			
Section 73A matters				
Does the proposed instrument				
a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error?;	N			
b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or	N			
c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land?	N			
(NOTE – the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).				

NOTES

- Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance.
- Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department.

(The following table contains extremely faint and illegible text, likely representing a list of properties or planning details. The content is not transcribable due to low contrast and blurring.)

Attachment B – Delegated plan making reporting

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to Table 2 to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	
Date Sent to department under s56	31 January 2013
Date considered at LEP Review Panel	
Gateway determination date	

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional Relevant Information:

Appendix C – Site Identification Maps (To be prepared prior to exhibition and inserted here)

Site Identification Map name	Sheet Nos	Item No (Appendix C)
Port Macquarie-Hastings Local Environmental Plan Amendment No 22	014C	

Appendix D – Gateway Determination

A copy of the Gateway Determination for this Planning Proposal will be included in this Appendix if the Determination (when issued) requires:

- community consultation, or
- Other changes to this proposal.

At the time of preparation of this version of the planning proposal there has been no Gateway Determination.

Appendix E – Map Cover Sheet

The Map Cover Sheet is a part of the submission of the draft LEP for formal approval by the Minister for Planning and Infrastructure or delegate.

It will not be prepared until that stage.

Note that the Map Cover Sheet will reflect the final content of the Changes to Map Sheets.

Appendix F – Map Sheets to be adopted

The map sheets to be adopted are listed in the Map Cover Sheet and in Changes to Map Sheets.