

Further Corrections and Refinements to Port Macquarie-Hastings LEP 2011 (Amd No.16)

Proposal Title :	Further Corrections and Refinements to Port Macquarie-Hastings LEP 2011 (Amd No.16)		
Proposal Summary :	To undertake a "housekeeping" amendment of further corrections and refinements to Port Macquarie-Hastings LEP 2011.		
PP Number :	PP_2012_PORTM_003_00	Dop File No :	12/06845

Proposal Details

Date Planning Proposal Received :	12-Apr-2012	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 :	Housekeeping		

Location Details

Street :			
Suburb :		City :	Postcode :
Land Parcel :	Port Macquarie-Hastings Local Government Area		

DoP Planning Officer Contact Details

Contact Name :	Craig Diss
Contact Number :	0267019685
Contact Email :	craig.diss@planning.nsw.gov.au

RPA Contact Details

Contact Name :	Stephen Nicholson
Contact Number :	0265818529
Contact Email :	stephen.nicholson@pmhc.nsw.gov.au

DoP Project Manager Contact Details

Contact Name :	
Contact Number :	
Contact Email :	

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 :	n/a	Date of Release :	
Area of Release (Ha) :	0.00	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 :

If No, comment :

Have there been meetings or communications with registered lobbyists? :

If Yes, comment :

Supporting notes

Internal Supporting Notes : To the best of the Regional Team's knowledge the NSW Government Lobbyists Code of Conduct has been complied with.

External Supporting Notes : The Planning Proposal deals with items not included in the recently submitted Planning Proposal (Amendment No.15). Council believed that Amendment No.15 dealt with only very minor corrections that were considered not have any policy or public interest implications, while Amendment No.16 involves issues of a policy or public interest nature that would require public exhibition.

Adequacy Assessment

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

Is a statement of the objectives provided? Yes

Comment : The objectives and intended outcomes of the planning proposal are adequately expressed for the proposed amendment to Port Macquarie-Hastings LEP 2011.

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

Is an explanation of provisions provided? Yes

Comment : The planning proposal provides a clear explanation of the intended provisions to achieve the objectives and intended outcomes.

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

- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

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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 (Exempt and Complying Development Codes) 2008**

e) List any other matters that need to be considered : **The planning proposal is considered to be consistent with the Mid North Coast Regional Strategy and relevant SEPPs.**

The inconsistencies with relevant section 117 Directions are considered to be of minor significance as discussed below.

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

If No, explain : **The submitted planning proposal does not identify any inconsistencies with relevant section 117 Directions. A review of the planning proposal by Department staff has identified the inconsistencies, which are considered to be of minor significance as discussed below.**

Mapping Provided - s55(2)(d)

Is mapping provided? **No**

Comment : **While the amended LEP sheets have not been provided at this stage, the planning proposal includes a list of the LEP map sheets needing amendment, and is accompanied by identification maps of all the proposed site specific corrections and amendments. The planning proposal also states that the LEP map sheets will be included in the public exhibition material. The details and maps provided are considered sufficient to enable the planning proposal to proceed.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The relevant planning authority has identified a 14 day exhibition period for the proposal. The planning proposal is considered to be a 'low impact' proposal, and the nominated notification period is therefore 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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **Port Macquarie-Hastings comprehensive LEP 2011 was made in February 2011.**

Assessment Criteria

Need for planning proposal : **The planning proposal is needed to make corrections and refinements to the Plan that have been identified since it was made. A total of 16 corrections or refinements have been identified in the planning proposal. The corrections and refinements are considered to be**

appropriate and are adequately justified in the planning proposal. The corrections and refinements can be classified into the following broad categories:

1. Land Use Table Changes

- a. Item 1 - permit 'airstrips' with consent in Zones RU1 and RU2 and prohibit in Zones R1, R3, R4, R5, B1, B2, B3, B4, B5, B7, IN1, IN2 and IN3;
- b. Item 2 - permit 'helipads' with consent in Zones RU6 and IN4 and prohibit in Zones RU5, R3, R4, R5, B1, B2, B3, B4, B5 and IN2;
- c. Item 3 - permit with consent 'home based child care' with consent in Zones RU1 and RU2;
- d. Item 4 - permit with consent 'home industries' with consent in Zones RU1 and RU2;
- e. Item 5 - permit with consent 'horticulture' in Zone RU4;
- f. Item 6 - permit with consent 'roadside stalls' in Zone RU2; and
- g. Item 7 - permit with consent 'vehicle repair stations' in Zone B5.

2. Site Specific Map Changes Due To Zoning / Lot Size / Floor Space Issues

- a. Item 10 - Lot 216, DP 802543, 47 Cowarral Circuit, Wauchope;
- b. Item 11 - Part Lot 1 DP 881120, Orara Street, Kendall;
- c. Item 13 - Part Lot 657, DP 45949 and Part Lot 121, DP 1156615, Port Macquarie Airport, Boundary Street, Port Macquarie; and
- d. Item 14 - Sunset Parade road reserve, Port Macquarie.

3. Miscellaneous

- a. Item 8 - amend the local objective 1(c) in Clause 5.6 Architectural Roof Features to include reference to minimising impacts on significant view corridors;
- b. Item 9 - include farm dams smaller than 3 megalitres in size in Schedule 2 - Exempt Development;
- c. Item 12 - include 'recreation facility (outdoor)' for Lot 1 DP 871968 and Lot 1 DP 722728, Pacific Highway, Lake Innes, in Schedule 1 - Additional Permitted Uses;
- d. Item 15 - amend the Acoustic Controls Map to apply the provisions of Clause 7.9 Development Subject to Acoustic Controls; and
- e. Item 16 - amend floor space controls for certain land zoned B4 or R3, Port Macquarie.

It is noted that Council has requested that Item 12 ('recreation facility (outdoor)' on Lot 1 DP 871968 and Lot 1 DP 722728, Pacific Highway, Lake Innes) be dealt with by Schedule 1 Additional Permitted Uses rather than rezoning the site to permit the land use. Discussions with Council staff have confirmed that they are consider that Schedule 1 is the only appropriate approach for this item (rather than rezoning the land) as:

- Council does not believe that recreation facilities (outdoor) is an appropriate use to be permitted throughout the RU1 Primary Production zone. The RU1 zone includes land classified as being regionally significant farmland under the Department's 2008 Mid North Coast Farmland Mapping Project. The Mid North Coast Regional Strategy and the Mid North Coast Farmland Mapping Project both recommend against permitting land uses that may result in land use conflict or compromise agricultural uses on regionally significant farmland;
- The RU1 zone is located along significant sections of the Pacific Highway, and permitting recreation facilities (outdoor) throughout the zone could result in applications for undesirable urban type development in visually significant rural locations adjoining the Pacific Highway that is inconsistent with the growth area boundaries identified under the Mid North Coast Regional Strategy; and
- The use of zones such as the SP3 Tourist Zone that would permit recreation facilities (outdoor) will also permit a number of other urban type uses such as 'tourist and visitor accommodation' which are not considered to be appropriate in a rural location adjoining the Pacific Highway that is not within a growth area boundary identified under the Mid North Coast Regional Strategy.

For the reasons highlighted above, it is considered that the use of Schedule 1 for Item 12 is appropriate in this instance.

Consistency with strategic planning framework :

The 16 items detailed in Appendix B of the planning proposal are considered to be consistent or justifiably inconsistent with the Mid North Coast Regional Strategy, SEPPs and section 117 Directions. While the planning proposal states that it is consistent with all relevant s117 Directions, it is considered that the proposal is inconsistent with the following Directions:

Section s117 Direction 2.1 Environment Protection Zones

Item 13, Port Macquarie Airport expansion, is inconsistent with this Direction as it reduces the environmental protection standards applying to the site by rezoning the land from E2 Environmental Conservation to SP2 Infrastructure - Air Transport Facility. This inconsistency is considered to be justified as a matter of minor significance as the zoning is reflecting the approved airport expansion works under Development Application 2011-0438, that included considering the environmental impacts to the land from the development. It is recommended however that Council still consult with the Office of Environment and Heritage (biodiversity) in relation to this matter due to the environmentally sensitive nature of the land and the presence of SEPP 14 Wetlands.

Section s117 Direction 3.1 Residential Zones

Item 11, Community Tennis Courts, Kendall, is inconsistent with this Direction as it reduces the permissible residential density of the site by rezoning the land from R1 General Residential to RE1 Public Recreation. This inconsistency is considered to be justified as a matter of minor significance as the land, whilst being zoned for R1 General Residential, is currently part of a railway corridor that is not used for residential purposes, and is unlikely to be used for such a purpose in the future due to its proximity to the North Coast railway line. Due to the proximity of the rail line, consultation with State Rail in relation to this matter is recommended.

Section s117 Direction 4.3 Flood Prone Land

Council has confirmed that Items 13 (Port Macquarie Airport), 14 (Sunset Parade, Port Macquarie) and 16 (floor space controls for certain land zoned B4 or R3, Port Macquarie) are located on land identified as being flood prone land under Port Macquarie-Hastings LEP 2011. These items are therefore inconsistent with this Direction as they will permit a significant increase in the development potential of the land. This inconsistency is considered to be justified as a matter of minor significance as the land is already developed for urban purposes (or has a development consent to permit the proposed development). It is recommended that Council still however consult with the Office of Environment and Heritage (flooding) in relation to this matter.

Section s117 Direction 4.4 Planning for Bushfire

Council has confirmed that Items 3 (Home based child care in the RU1 and RU2 Zones) and 12 ('recreation facility (outdoor)', Pacific Highway, Lake Innes) are located on, or will affect land identified as being, bushfire prone land. The planning proposal is currently inconsistent with this Direction as the relevant planning authority has not yet consulted with the Commissioner of the NSW Rural Fire Service on these items. It is anticipated that the planning proposal will be consistent with this Direction after consultation with the Commissioner of the NSW Rural Fire Service has been completed.

Section s117 Direction 6.2 Reserving Land for Public Purposes

Item 10, 47 Cowarral Circuit, Wauchope, is inconsistent with this Direction as it seeks to rezone land from RE1 Public Recreation to R1 General Residential without the approval of the Director General. This inconsistency is considered to be justified as a matter of minor significance as the land has been identified as having been zoned RE1 Private Recreation incorrectly. The land is in private ownership and has an existing residential dwelling located on it.

Environmental social economic impacts :

No significant adverse environmental, social or economic impact has been identified as resulting from the proposal.

Assessment Process

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

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

Public Authority Consultation - 56(2)(d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
NSW Rural Fire Service
Transport for NSW - RailCorp
Transport for NSW - Roads and Maritime Services
Other**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Public Authority consultation has been identified for the various agencies in relation to the following items:**

**Office of Environment and Heritage (Biodiversity) - Item 12;
Office of Environment and Heritage (Flooding) - Items 13, 14 and 16;
Department of Primary Industries (Agriculture) and (Office of Water) - Item 9;
NSW Rural Fire Service - Items 3 and 12;
Transport for NSW (Railcorp) - Item 11; and
Transport for NSW (Roads and Maritime Services) - Item 12.**

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
Amendment no. 16 - section 56 Submission letter from Council.pdf	Proposal Covering Letter	Yes
Amendment No. 16 - Planning Proposal 2011-0012_Apr12.pdf	Proposal	Yes
Amendment No.16 - Council Report.pdf	Proposal	Yes
Amd 16 Site ID Sheet 010B 20120405.pdf	Map	Yes
Amd 16 Site ID Sheet 011B 20120405.pdf	Map	Yes
Amd 16 Site ID Sheet 013 20120405.pdf	Map	Yes
Amd 16 Site ID Sheet 013C 20120405.pdf	Map	Yes
Amd 16 Site ID Sheet 013D 20120405.pdf	Map	Yes
Amd 16 Site ID Sheet 013FA 20120405.pdf	Map	Yes
Amd 16 Site ID Sheet 013G 20120405.pdf	Map	Yes

Planning Team Recommendation

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

S.117 directions:

- 2.1 Environment Protection Zones**
- 3.1 Residential Zones**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.2 Reserving Land for Public Purposes**
- 6.3 Site Specific Provisions**

Additional Information : It is recommended that:

1. the planning proposal be supported;
2. that a 14 day community consultation period be undertaken;
3. that the following State agencies be consulted prior to community consultation being undertaken;
 - NSW Rural Fire Service
 - NSW Office of Environment and Heritage (Flooding and Biodiversity)
 - NSW Department of Primary Industries (Agriculture and Office of Water)
 - Transport for NSW (Railcorp)
 - Transport for NSW (Roads and Maritime Services)
4. that the planning proposal be completed within 9 months; and
5. the Director General's delegate agree to the inconsistencies to the following s117 Directions are justified as matters of minor significance:
 - 2.1 Environmental Protection Zones;
 - 3.1 Residential Zones;
 - 4.3 Flood Prone Land; and
 - 6.2 Reserving Land for Public Purposes

Supporting Reasons : The planning proposal will undertake corrections and refinements to the Port Macquarie-Hastings LEP 2011. These corrections and refinements are considered as important in permitting the LEP to operate effectively and accurately.

The proposal is considered to be consistent with the strategic planning framework and either consistent with the relevant s117 Directions; or where identified as inconsistent, the inconsistencies are justified as being of minor significance.

Signature:



Printed Name:

Jim Clark

Date:

20 April 2012