

Contact: Craig Diss
Phone: (02) 6701 9689
Fax: (02) 6701 9690
Email: Craig.Diss@planning.nsw.gov.au
Postal: PO Box 550, Tamworth NSW 2340

Mr Tony V Hayward
General Manager
Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Our ref: PP_2012_PORTM_003_00 (12/06845)
Your ref: PP2011-0012

Dear Mr Hayward,

Planning proposal consisting of several "housekeeping" amendments of corrections and refinements to Port Macquarie-Hastings LEP 2011

I am writing in response to your Council's letter dated 12 April 2012 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Port Macquarie Local Environmental Plan 2011 to undertake a "housekeeping" amendment of corrections and refinements.

As delegate of the Minister for Planning and Infrastructure, I have now determined that the planning proposal should proceed subject to the conditions in the attached Gateway Determination.

It is noted that Item 12 of the planning proposal seeks to use Schedule 1 to include 'recreation facility (outdoor)' as an additional permitted use on land at Lot 1 DP 871968 and Lot 1 DP 722728, Pacific Parkway, Lake Innes. It is acknowledged that Council does not consider 'recreation facilities (outdoor)' to be an appropriate use throughout the RU1 Primary Production Zone, given that the RU1 zone includes land classified as being farmland of regional significance. It is also acknowledged that a significant portion of the site may contain Ecologically Endangered Communities and is heavily vegetated and therefore other forms of development may be inappropriate should they be permissible under an alternative zone. However, the use of Schedule 1 in this circumstance is not supported due to a lack of clarity and transparency surrounding the intended future use of the land and the relationship of the use to the objectives of the underlying zone. Therefore, Council is to zone the land to reflect the intended future land use, being either RE1 or RE2.

In doing so, Council is encouraged to rezone only that portion of the site that is intended to accommodate the relocated Extreme Velocity wind tunnel operation, retaining the RU1 zone over the remainder of the site that is environmentally sensitive. In regards to the recreation facility, Council is encouraged to utilise the RE2 Public Recreation zone, given the site is in public ownership. Council should undertake further investigation to determine the boundary of the split zoning.

Council may wish to consult with the Department's Regional Team in determining appropriate zones for the site and the boundary of the split zoning in order to achieve Council's objectives. Council is to amend the planning proposal to reflect the requirements of the Gateway determination prior to proceeding to public exhibition.

As per the requirements of S117 Direction 2.1 Environmental Protection Zones, Council is to consult with the Office of Environment and Heritage (OEH) regarding Item 13 (Port Macquarie Airport Expansion) of the planning proposal. During consultation with OEH, Council is to discuss any relevant details of the development application for the airport expansion and its relationship to the environmental sensitivity of the subject land and the applicability of State Environmental Planning Policy 14 Wetlands. Any comments made are to be included in the planning proposal for the purposes of public exhibition.

In regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service, prior to undertaking community consultation. Council is to take into account any comments made and amend the planning proposal (if necessary) as per the requirements of the Local Planning Direction.

I have also agreed that the planning proposal's inconsistencies with S117 4.3 Flood Prone Land and 6.2 Reserving Land for Public Purposes are of minor significance. No further approval is required in relation to these Directions.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway Determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under s54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Craig Diss of the Regional Office of the Department on 02 6701 9689.

Yours sincerely,


Sam Haddad
Director-General

10/5/2012.

Gateway Determination

Planning Proposal (Department Ref: PP_2012_PORTM_003_00): to undertake a "housekeeping" amendment of further corrections and refinements to Port Macquarie-Hastings LEP 2011.

I, the Director General, Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Port Macquarie Local Environmental Plan 2011 to undertake a "housekeeping" amendment of further corrections and refinements to Port Macquarie-Hastings LEP 2011 should proceed subject to the following conditions:

1. In relation to item 12 of the planning proposal, the use of Schedule 1 in this circumstance is not supported due to a lack of clarity and transparency surrounding the intended future use of the land and the relationship of the use to the objectives of the underlying zone. Therefore, Council is to rezone that portion of the land to be used for the recreation facility RE1 Private Recreation or RE2 Public Recreation to reflect the intended future use, and retain the RU1 zone over the vegetated and environmentally sensitive portion of the site. Council is to amend the planning proposal to justify and explain how it determines the boundary of the split zoning.
2. The planning proposal is to be amended and a copy of the revised document provided to the Department's Regional team prior to the commencement of community consultation.
3. As per the requirements of S117 Direction 2.1 Environmental Protection Zones, Council is to consult with the Office of Environment and Heritage regarding Item 13 of the planning proposal, Port Macquarie Airport Expansion. Any comments made are to be reflected in the planning proposal prior to public consultation.
4. As per the requirements of S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service, prior to undertaking community consultation. Council is to take into account any comments made and amend the planning proposal (if necessary) as per the requirements of the Local Planning Direction.
5. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - 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

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

7. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).
8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 10th day of May 2012.



Sam Haddad
Director-General
Delegate of the Minister for Planning and
Infrastructure