

(FUTURE) PUBLIC EXHIBITION DATES

(Start) to (Finish)

Planning Proposal under section 55 of the EP&A Act

**Port Macquarie-Hastings LEP 2011
(Amendment No *)**

Eco-tourist facilities

Ccl ref: PP2013-11.1

DPI ref: PP_2013_PORTM_*

Date: 25/10/2013



**PORT MACQUARIE
HASTINGS**

Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Adopted by Council & referred to Dept of Planning (sec 56 (1))	25/10/2013
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 to Dept of Planning (sec 58 (2))	

Council reference: PP2013.11.1

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

Department of Planning & *

Infrastructure reference:

Council Address

Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Contact Officer

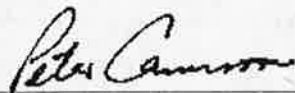
Stephen Nicholson
Senior Strategic Town Planner
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Phone 6581 8529

Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on 25 October 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

Exhibition information *(To be completed prior to Exhibition)*

Content

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

Details of the amendments contained in this **Planning Proposal PP2013-11.1** are contained in Parts 1 and 2, found on pages 8 and 9.

The Planning Proposal contains statements of the intent for changes to the LEP text, but not the specific wording. There are no associated changes to the LEP maps.

The Council Meeting Report from 16 October 2013, relating to this Planning Proposal, is in **Appendix A**.

The "Gateway Determination" from the NSW Department of Planning and Infrastructure, relating to this Planning Proposal, is in **Appendix B**.

Exhibition

The exhibition period is from **start to finish**, with the Planning Proposal available for inspection by any person at Council's offices at Port Macquarie, Laurieton and Wauchope.

Submissions

Any person may make a written submission to Council up until the end of the exhibition period.

The submission should quote Council's reference - PP2013.11.1, and be

emailed to council@pmhc.nsw.gov.au or posted to The General Manager,
Port Macquarie-Hastings Council,
PO Box 84,
PORT MACQUARIE NSW 2444.

Note that any submission may be made public.

Section 147 (5) of the *Environmental Planning and Assessment Act 1979* states in part:

"A person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of that council,
- (b) all gifts made to any local councillor or employee of that council."

If further information or forms are required, ask Council's Customer Service staff.

Further Information

Please contact Stephen Nicholson on phone 6581 8529.

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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.

Background

Proposal	(A) To permit with consent eco-tourist facilities within Zones RU1 Primary Production, RU2 Rural Landscape, R1 General Residential, R5 Large Lot Residential, SP3 Tourist and E4 Environmental Living. (B) To insert an associated local clause to facilitate eco-tourist facilities being appropriate in scale to their location.
Property Details	All land within Zones RU1 Primary Production, RU2 Rural Landscape, R1 General Residential, R5 Large Lot Residential, SP3 Tourist or E4 Environmental Living.
Applicant Details	Port Macquarie-Hastings Council.
Land owner	Numerous - based on land zoning.
Brief history	Council's <i>Urban Growth Management Strategy 2011-2031</i> considered strategies to develop tourism, and contains Implementation Action 35: "Proposed "Ecotourism" definition to be added to the new Port Macquarie-Hastings LEP and appropriate DCP provisions developed to aid assessment of Ecotourism developments." Council's Port Macquarie-Hastings Local Environmental Plan 2011 commenced prior to inclusion of a definition of eco-tourist facilities, and at present eco-tourist facilities are prohibited in every zone. On 16 October 2013 Council considered a report on this matter. [Refer to Appendix *] At this time it is not proposed to introduce any DCP provisions.

Associated mandatory provisions

The Dictionary of *Port Macquarie-Hastings Local Environmental Plan 2011* contains this definition:

eco-tourist facility means a building or place that:

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

Note. See clause 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of *tourist and visitor accommodation*—see the definition of that term in this Dictionary.

The following clause is suppressed until eco-tourist facilities are permissible within the LEP.

5.13 Eco-tourist facilities [compulsory if eco-tourist facilities permitted with consent]

- (1) The objectives of this clause are as follows:
 - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
 - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.
- (2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.
- (3) The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that:
 - (a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and
 - (b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and
 - (c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and
 - (d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and indigenous flora and fauna will be minimal, and
 - (e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and
 - (f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and
 - (g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours materials and landscaping with local indigenous flora, and
 - (h) any infrastructure services to the site will be provided without significant modification to the environment, and
 - (i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and
 - (j) the development will not adversely affect the agricultural productivity of adjoining land, and

- (k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment:
 - (i) measures to remove any threat of serious or irreversible environmental damage,
 - (ii) the maintenance (or regeneration where necessary) of habitats,
 - (iii) efficient and minimal energy and water use and waste output,
 - (iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,
 - (v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.

Part 1 - Objectives or Intended Outcomes

The objectives of this planning proposal are to amend *Port Macquarie-Hastings Local Environmental Plan 2011*:

- a) to permit with consent eco-tourist facilities within Zones RU1 Primary Production, RU2 Rural Landscape, R1 General Residential, R5 Large Lot Residential, SP3 Tourist and E4 Environmental Living, and
- b) to insert an associated local clause to facilitate eco-tourist facilities being appropriate in scale to their location.

Part 2 - Explanation of Provisions

As part of State-wide amendments, in 2011 Port Macquarie-Hastings Local Environmental Plan 2011 was amended to define eco-tourist facilities and prohibit them in every zone, pending Council determination of within which zones they would be permissible.

Council has resolved to prepare a draft planning proposal to:

- a) permit with consent eco-tourist facilities within the following Zones:
 - RU1 Primary Production,
 - RU2 Rural Landscape,
 - R1 General Residential,
 - R5 Large Lot Residential,
 - SP3 Tourist, and
 - E4 Environmental Living.

It is noted that such an amendment will automatically activate within the LEP clause 5.13 Eco-tourist facilities, as found in the *Standard Instrument (Local Environmental Plans) Order 2006*. [A copy of clause 5.13 is found on pages 6-7.] The objectives of the clause are:

- (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
- (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.

Council also resolved to introduce a local clause in the LEP “with the objective of facilitating eco-tourist facilities, as described in this report”, being “provisions regarding lot size, floor space and infrastructure provision”. There is concern that there are inadequate controls to prevent eco-tourist facilities on small (rural) sites, to manage the scale of the facilities, and to avoid facilities creating additional costs for the local community, for example in increased maintenance requirements for long lengths of gravel roads.

Council also resolved that the draft planning proposal insert a local clause. The report proposed:

Draft clause 7.14 Eco-tourist facilities - additional provisions

- (1) The objective of this clause is to ensure that eco-tourist facilities have an appropriate scale.
- (2) Development consent must not be granted to eco-tourist facilities unless:
 - (a) the area of the subject land is at least the minimum lot size specified for that land by the Lot Size Map, and
 - (b) the gross floor area of the eco-tourist facility and any ancillary permanent accommodation for owners or managers does not exceed 1000 square metres, and
 - (c) the consent authority is satisfied that the development does not cause unfunded increased demand for provision or maintenance of local infrastructure.

Note the above illustrates the intent, but the final wording will be prepared by the NSW Parliamentary Counsel's Office.

Part 3 – Justification

A - Need for the planning proposal.

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

Yes - proposed in Council's *Urban Growth Management Strategy 2010 – 2031*.

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

To permit eco-tourist facilities in selected land use zones requires an amendment to *Port Macquarie-Hastings Local Environmental Plan 2011*, and this is initiated by a Planning Proposal.

B - Relationship to strategic planning framework.

3. Is the planning proposal consistent with the objectives and actions of the Mid North Coast Regional Strategy 2006-31?

Yes. The proposal is consistent with the objectives of the Strategy.

Assessment of this proposal against the relevant Actions is contained in the Table below.

Strategy Actions	Assessment
Councils will plan strategically for tourism development in an agreed local growth management strategy. Planning for tourist facilities and tourism development will adopt the following principles:	
Acknowledgement of and consistency with the North Coast Regional Tourism Plan 2004–2007 (or latest version) ...	The proposal is consistent with providing a range of options for tourism experiences.

Strategy Actions	Assessment
A range of tourism experiences and forms of tourist accommodation will be provided for in urban areas, including 'bed and breakfast'	Propose to permit eco-tourist facilities within Zones R1 General Residential, SP3 Tourist and E4 Environmental Living.
No tourism development should be located near the Pacific Highway, except within towns.	Not proposed to apply a specific prohibition, but recognise that approval for direct access to Highway would be extremely unlikely, and impact on relevant access road intersection would need to be assessed at development application stage.
Local environmental plans will locate large scale tourism development in prime tourism development areas unless other proposed locations are consistent with an approved local growth management strategy.	Council's UGMS proposed allowing eco-tourist facilities.
Local environmental plans will prevent permanent residential accommodation in tourism development, except where it is ancillary to existing tourism development or part of an area otherwise identified for urban expansion in an approved local growth management strategy. [p 27]	The proposed local clause in part discourages eco-tourist facilities being used to provide permanent residential accommodation.
New development adjoining or adjacent to farmland, extractive resources, waterways, wetlands and areas with high value biodiversity will incorporate buffers to avoid land use conflict. [p 32]	The associated mandatory clause 5.13 [see pages 6-7] contains adequate measures to address this action.

It is considered that the proposal is consistent with these Actions.

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

Yes - Implementation Action No 35 in the *Urban Growth Management Strategy 2011-2031* states:

"Proposed "Ecotourism" definition to be added to the new Port Macquarie-Hastings LEP and appropriate DCP provisions developed to aid assessment of Ecotourism developments."

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

Yes.

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

The relevant section 117 directions are:

No 1.3 Mining, Petroleum Production and Extractive Industries

In summary, Council must consult with the Director-General of the Department of Primary Industries (DPI) where the proposal may create land use conflicts with:

- (i) (development of) resources of coal, other minerals, petroleum or extractive material that are of either State or regional significance, or
- (ii) existing mines, petroleum production operations or extractive industries occurring in the area subject to the planning proposal.

As the proposal potentially applies to a wide area, there is scope for such conflict to arise. Consultation as specified in the Direction is appropriate.

No 1.5 Rural Lands

The proposal is consistent with the Rural Planning Principles and the Rural Subdivision Principles listed in *State Environmental Planning Policy (Rural Lands) 2008*.

No 4.4 Planning for Bushfire Protection

- 1) It is appropriate to consult with the Commissioner of the NSW Rural Fire Service.
- 2) The Direction also states:
 “A planning proposal must:
 (a) have regard to *Planning for Bushfire Protection 2006*,
 (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and
 (c) ensure that bushfire hazard reduction is not prohibited within the APZ.”

There is the potential for eco-tourist facilities, which are located in or adjacent to areas with special ecological or cultural features, to be within hazardous areas - see comments below.

Clause 5.11 of the LEP states “Bushfire hazard reduction authorised by the *Rural Fires Act 1997* may be carried out on any land without development consent.”

- 3) The Direction also requires that “A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: ...”. The associated specifics should be addressed at development application stage, having regard to *Planning for Bushfire Protection 2006*.

Under section 100B of the *Rural Fires Act 1997* tourist accommodation is a **special fire protection purpose**, requiring a **bush fire safety authority** if on bush fire prone land. Under section 79BA of the *Environmental Planning and Assessment Act 1979* this triggers referral to the Rural Fire Service for that **bush fire safety authority** and the consent authority is required to be satisfied that the development complies with *Planning for Bushfire Protection 2006*, unless the RFS has been consulted “concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire”.

It is considered that there are adequate measures in place, even in relation to hazardous areas.

No 5.1 Implementation of Regional Strategies

The Direction states:

“Planning proposals must be consistent with a regional strategy released by the Minister for Planning.”

This has been addressed under Item 3 above.

C - Environmental, social and economic impact.

7. 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?

Not specifically, and the legislation will trigger appropriate consideration of this as appropriate for any development application.

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

There are a range of possible environmental effects. The associated clause 5.11 specifically requires the consent authority to be satisfied about several environmental aspects, including “the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and indigenous flora and fauna will be minimal”.

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

There are limited social effects. In relation to economic effects the proposal facilitates additional options for tourist development, while including controls to maintain appropriate scale.

D - State and Commonwealth Interests.

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

This is dependent on the specific details of associated development applications. Eco-tourist facilities are expected to have low impact infrastructure requirements.

It is possible that some proposals could have significant impact on the local road network in terms of upgrades or increased maintenance costs - the proposed local clause addresses this.

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

No consultation prior to Gateway determination.

Consultation is proposed with NSW Department of Primary Industries and NSW Rural Fire Service

Part 4 – Mapping

The relevant land is based on land zoning, and potentially subsequent development could occur over a large part of the Council area. No mapping is provided.

Part 5 – Community Consultation

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

- is consistent with the pattern of surrounding land use zones and/or land uses,
- is consistent with the strategic planning framework,
- presents no issues with regard to infrastructure servicing,
- is not a principal LEP, and
- does not reclassify public land.

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

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

- Notification in a locally circulating newspaper.
- Notification on Council's website.
- Written notification to affected and adjoining landowners.

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 functions. Delegation would be exercised by Council's General Manager or the Director of Development and Environmental Services.

Anticipated dates	2013						2014					
	J	A	S	O	N	D	J	F	M	A	M	J
Commencement (date of Gateway determination)					X							
Timeframe for the completion of required technical information												
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)						X						
Commencement and completion dates for public exhibition period								X				
Dates for public hearing (if required)												
Timeframe for consideration of submissions									X			
Timeframe for the consideration of a proposal post exhibition									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		

Appendix A – Council Report

The following pages contain the Agenda Report and Minute page for the Council meeting held on 16 October 2013, relating to the Planning Proposal

Council Meeting Minutes											
Item	Agenda Item	Report	Minutes	Decision	Comments	Responsible Officer	Responsible Officer	Responsible Officer	Responsible Officer	Responsible Officer	Responsible Officer
1	Approval of the Minutes of the previous meeting										
2	Approval of the Planning Proposal										
3	Approval of the Planning Proposal										
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Planning and Providing Our Infrastructure

Item: 12.11

Subject: LEP AMENDMENT - ECO-TOURIST FACILITIES (PP2013-11.1)

Presented by: Development & Environment, Matt Rogers

Alignment with Delivery Program

5.4.3 Review the planning framework for decisions regarding land use and development.

RECOMMENDATION

That Council:

1. Prepare a draft planning proposal as described in this report, pursuant to section 55 of the Environmental Planning and Assessment Act 1979, for the amendment of the provisions of Port Macquarie-Hastings Local Environmental Plan 2011, in relation to:
 - a) permitting with consent eco-tourist facilities within Zones RU1 Primary Production, RU2 Rural Landscape, R1 General Residential, R5 Large Lot Residential, SP3 Tourist and E4 Environmental Living, and
 - b) inserting a local clause with the objective of facilitating eco-tourist facilities, as described in this report.
2. Forward the draft planning proposal to the Department of Planning and Infrastructure for a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to sections 56 - 58 of the Act.
3. Request that the Director General of the Department of Planning & Infrastructure issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under section 59 of the Act in respect of the planning proposal.

Planning and Providing Our Infrastructure

Executive Summary

This report proposes an amendment to Port Macquarie-Hastings Local Environmental Plan 2011 (LEP 2011) to permit small to medium scale eco-tourist facilities in several zones, subject to some supplementary provisions.

The need for the proposed amendment arises due to changes to land use definitions and provisions in the standard LEP template for NSW. The previous LEP 2001 used the broader definition of "rural tourist facility", which no longer exists in LEP 2011.

In preparing the report, Council staff have undertaken research on past approvals for rural tourist facilities, including consideration of problems that have arisen with the approval of rural tourist facilities in the past. Advice has been obtained from the Department of Planning & Infrastructure on possible planning provisions.

It is proposed that Council proceed to exhibition with the standard template eco-tourism provisions and an additional local clause in relation to eco-tourism. The proposed clause would provide scope for the approval of small to medium scale eco-tourist facilities (up to 1,000m² max; e.g. 20 cabins) with appropriate consideration to lot size/dwelling provisions and infrastructure demands.

Discussion

The previous LEP for the Port Macquarie-Hastings Local Government Area (LEP 2001) used the definition "rural tourist facility", to cover small-scale tourist facilities in rural areas. The term "rural tourist facility" no longer exists in the standard instrument LEP for NSW and therefore cannot be used in the current LEP for the Port Macquarie-Hastings Local Government Area (LEP 2011).

Shortly after *Port Macquarie-Hastings Local Environmental Plan 2011* was made, the Standard Instrument for NSW was amended to include a further land use category - "eco-tourist facility". By default it was prohibited in every zone, to allow each Council to determine in which zones it would be allowed.

The Standard Instrument definition is:

eco-tourist facility means a building or place that:

- (a) provides temporary or short-term accommodation to visitors on a commercial basis, and
- (b) is located in or adjacent to an area with special ecological or cultural features, and
- (c) is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact.

It may include facilities that are used to provide information or education to visitors and to exhibit or display items.

Note. See clause 5.13 for requirements in relation to the granting of development consent for eco-tourist facilities.

Eco-tourist facilities are not a type of **tourist and visitor accommodation**—see the definition of that term in this Dictionary.

Planning and Providing Our Infrastructure

Clause 5.13 was also drafted by the State government in relation to “eco-tourist facilities”. The Clause is not included in an LEP (based on the Standard Instrument) unless eco-tourist facilities are permissible in at least one zone:

5.13 Eco-tourist facilities [compulsory if eco-tourist facilities permitted with consent]

- (1) The objectives of this clause are as follows:
 - (a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,
 - (b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site.
- (2) This clause applies if development for the purposes of an eco-tourist facility is permitted with development consent under this Plan.
- (3) The consent authority must not grant consent under this Plan to carry out development for the purposes of an eco-tourist facility unless the consent authority is satisfied that:
 - (a) there is a demonstrated connection between the development and the ecological, environmental and cultural values of the site or area, and
 - (b) the development will be located, constructed, managed and maintained so as to minimise any impact on, and to conserve, the natural environment, and
 - (c) the development will enhance an appreciation of the environmental and cultural values of the site or area, and
 - (d) the development will promote positive environmental outcomes and any impact on watercourses, soil quality, heritage and indigenous flora and fauna will be minimal, and
 - (e) the site will be maintained (or regenerated where necessary) to ensure the continued protection of natural resources and enhancement of the natural environment, and
 - (f) waste generation during construction and operation will be avoided and that any waste will be appropriately removed, and
 - (g) the development will be located to avoid visibility above ridgelines and against escarpments and from watercourses and that any visual intrusion will be minimised through the choice of design, colours materials and landscaping with local indigenous flora, and
 - (h) any infrastructure services to the site will be provided without significant modification to the environment, and
 - (i) any power and water to the site will, where possible, be provided through the use of passive heating and cooling, renewable energy sources and water efficient design, and
 - (j) the development will not adversely affect the agricultural productivity of adjoining land, and
 - (k) the following matters are addressed or provided for in a management strategy for minimising any impact on the natural environment:
 - (i) measures to remove any threat of serious or irreversible environmental damage,
 - (ii) the maintenance (or regeneration where necessary) of habitats,
 - (iii) efficient and minimal energy and water use and waste output,

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- (iv) mechanisms for monitoring and reviewing the effect of the development on the natural environment,
- (v) maintaining improvements on an on-going basis in accordance with relevant ISO 14000 standards relating to management and quality control.

Council staff have reviewed the standard definition and clause related to eco-tourism, as shown above, having regard to previous approvals for tourism developments in rural areas and the objective of facilitating appropriate tourism development in the Port Macquarie-Hastings, as described in the Urban Growth Management Strategy.

As a result, it is proposed that Council permit eco-tourist facilities with consent in Zones:

- RU1 Primary Production,
- RU2 Rural Landscape,
- R1 General Residential,
- R5 Large Lot Residential,
- SP3 Tourist and
- E4 Environmental Living.

These zones cover the majority of the local government area.

Consideration has also been given to the E3 Environmental management zone, however, given the areas to which this zone has been applied, including the recent E3 Environmental Management rezoning on the Dunbogan foreshore, this zone is not proposed for inclusion. The permissibility of land uses within Zone RU3 Forestry is determined under the Forestry Act 2012, and Council has no role in this.

The standard eco-tourism clause for NSW (Clause 5.13 above) provides a number of considerations, focussed on environmental impact and the relationship of a proposed eco-tourism development to the environment. However, it does not specifically address lot size, scale of development and the impact on public infrastructure.

These issues have been researched by Council planning staff in consultation with the Department of Planning & Infrastructure. Eco-tourism provisions in other local government areas and past approvals for rural tourist facilities have been reviewed.

The research shows that developments can be designed in some instances to circumvent restrictions in relation to rural dwellings, if tourist related facilities are permitted on lots that do not otherwise permit a rural dwelling. Some approved rural tourist facilities have been permanently occupied and this introduces a compliance problem for Council if not regulated.

The proposed eco-tourist provisions should not introduce capacity for small scale tourist facilities, such as a managers dwelling and cabins, on lots that do not otherwise permit dwellings in accordance with LEP 2011 as Council's experience is that this leads to developments in rural areas that do not function as tourist facilities.

It is proposed that Council supplement the provisions of Clause 5.13 with provisions regarding lot size, floor space and infrastructure provision, as shown below. This proposed local clause would operate in conjunction with clause 5.13 reproduced above.

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Draft clause 7.14 Eco-tourist facilities - additional provisions

- (1) The objective of this clause is to ensure that eco-tourist facilities have an appropriate scale.
- (2) Development consent must not be granted to eco-tourist facilities unless:
 - (a) the area of the subject land is at least the minimum lot size specified for that land by the Lot Size Map, and
 - (b) the gross floor area of the eco-tourist facility and any ancillary permanent accommodation for owners or managers does not exceed 1000 square metres, and
 - (c) the consent authority is satisfied that the development does not cause unfunded increased demand for provision or maintenance of local infrastructure.

Paragraph (b) has been based on a review of previous rural tourist facility applications. A gross floor area of 1000m² could allow up to say 20 x 50 m² cabins, including owner/staff accommodation, which is more generous than current rural tourist facility developments. This is a maximum to cater for larger sites - it may be excessive for smaller sites.

For larger scale eco-tourist proposals, or for proposals for tourist development outside Council's identified growth areas, it is proposed that a site-specific assessment would be undertaken in each case, and where there is merit in accordance with the Urban Growth Management Strategy (UGMS), an amendment to LEP 2011 could be prepared.

This is the current situation for tourist facilities including the Cassegrain facilities at Fernbank Creek and would be the case for a facility such as the Stoney Park Waterski and Holiday Park, if that proposal were proposed under current planning provisions. This provides an opportunity for strategic assessment of larger scale proposals by Council, consistent with the UGMS (2011).

Facilities such as "bed and breakfast accommodation" and "farm stay accommodation" are already permitted with consent in rural zones under LEP 2011.

Paragraph (c) in the proposed local clause addresses demands on public infrastructure that are not specifically addressed in Clause 5.13. This is particularly important in remote rural locations. For example, the demands that may be generated on Council to upgrade gravel roads in outlying rural areas.

Whilst developer contributions are applicable to tourist facilities (i.e. Major Roads, Open Space and Community, Cultural & Emergency Service Facilities), the Major Roads Contributions Plan will not cover any increased costs of ongoing rural road maintenance and this is an important issue for consideration by Council.

It is proposed that Council exhibit a draft planning proposal comprising amended zone provisions and the introduction of Clause 5.13 and a local clause regarding eco-tourism development, as discussed above.

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Options

Council could opt to not include "eco-tourism provisions" in LEP 2011 or seek advice on alternative provisions to those recommended in this report. The matter could also be deferred pending further investigation on one or more issues.

Community Engagement & Internal Consultation

Prelim consultation has taken place with Council's Economic Development Manager and with representatives of the NSW Department of Planning & Infrastructure. This has included preliminary advice from the Department's Legal Branch.

It is proposed that the draft LEP amendment be referred to the Department's Local Planning Panel, to obtain approval to proceed to public exhibition. This would ordinarily include a requirement for a minimum exhibition period and it is proposed that Council suggest that this be a minimum of 28 days in this instance. Compliance with the Department's requirements is mandatory.

In accordance with Council's Community Participation Policy, the draft LEP amendment has been assessed as having a low level of public impact with relevance to the community as a whole and specific relevance to tourism industry representatives.

Accordingly, it is proposed that Council consult and inform the community during the exhibition period using newspaper advertisements, displays at Council offices and on Council's web site. It is proposed that Council staff meet specifically with tourist industry representatives on the Tourist Association Board during the exhibition and that feedback from all interested parties will be reported to Council.

Council may need to obtain additional legal advice in relation to the draft LEP provisions and if so, this would also be reported to Council after the exhibition period.

Planning & Policy Implications

The addition of the eco-tourism provisions to LEP 2011 is listed as an action in Council's adopted Urban Growth Management Strategy 2011. The relevant aim in the UGMS is to: "Provide opportunities for smaller-scale, minimum - impact tourism ventures, which relate to the landscape and environmental values, throughout the PMH area".

The proposed LEP amendment will facilitate a further option for growth in rural tourism. The proposed local clause provides for consideration of the key issues in eco-tourism proposals in addition to the matters listed in the standard State clause, as described in this report.

Financial & Economic Implications

The proposed LEP amendment will facilitate a further option for growth in rural tourism.

There will be minimal cost to Council for the LEP amendment.

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Care will be required with assessment of subsequent infrastructure upgrade or maintenance costs arising from any development consents for eco-tourist facilities.

It is expected that inclusion of ecotourism provisions in the LEP will have a positive economic impact by permitting suitable developments and the flow on effects such businesses create within the local economy.

Attachments

Nil

12.11 LEP AMENDMENT - ECO-TOURIST FACILITIES (PP2013-11.1)

RESOLVED: Levido/Cusato

That Council:

1. Prepare a draft planning proposal as described in this report, pursuant to Section 55 of the Environmental Planning and Assessment Act 1979, for the amendment of the provisions of Port Macquarie-Hastings Local Environmental Plan 2011, in relation to:
 - a) Permitting with consent eco-tourist facilities within Zones RU1 Primary Production, RU2 Rural Landscape, R1 General Residential, R5 Large Lot Residential, SP3 Tourist and E4 Environmental Living, and
 - b) Inserting a local clause with the objective of facilitating eco-tourist facilities, as described in this report.
2. Forward the draft planning proposal to the Department of Planning and Infrastructure for a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to Sections 56 - 58 of the Act.
3. Request that the Director General of the Department of Planning & Infrastructure issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under Section 59 of the Act in respect of the planning proposal.

CARRIED: 9/0

FOR: Besseling, Cusato, Griffiths, Hawkins, Intemann, Levido, Roberts, Sargeant and Turner

AGAINST: Nil

13 QUESTIONS FOR NEXT MEETING

13.01 KEW WASTE TRANSFER STATION

Question from Councillor Griffiths:

Can the General Manager provide an updated report on the Camden Haven Waste Transfer Station to the November 2013 Council Meeting to address concerns of residents regarding site selection:

1. Detailed costing of each site clarifying rates and volumes including dumping levy.
2. Advise noise, dust, security impact on each site.
3. Frequency of crushing and mulching expected.
4. Area and design of waste transfer station including sketch or photo of existing transfer station.
5. Advise how transfer sites operate.
6. Road entry options for sites, ie. Ocean Drive, left in / left out.
7. How the upgrade of the Dunbogan roadway through flood strategies would alter the cost at this location.

Appendix B – Gateway Determination

A copy of the Gateway Determination for this Planning Proposal will be included in this Appendix after it is issued.

The Determination will identify processing requirements, such as:

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

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

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