

Port Macquarie-Hastings LEP 2011 - Rezoning land at Beach Street, Bonny Hills (approx 14 residential allotments / dwellings, 0 employment)

Proposal Title :	Port Macquarie-Hastings LEP 2011 - Rezoning land at Beach Street, Bonny Hills (approx 14 residential allotments / dwellings, 0 employment)		
Proposal Summary :	The planning proposal seeks to rezone land at Beach Street, Bonny Hills from RU1 Primary Production to R1 General Residential and E2 Environmental Conservation, and amend the minimum lot size and floor space ratio maps to apply appropriate planning controls to the land.		
PP Number :	PP_2017_PORTM_003_00	Dop File No :	17/07964

Proposal Details

Date Planning Proposal Received :	06-Jun-2017	LGA covered :	Port Macquarie-Hastings
Region :	Northern	RPA :	Port Macquarie-Hastings Council
State Electorate :	PORT MACQUARIE	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :	Beach Street		
Suburb :	Bonny Hills	City :	Postcode : 2445
Land Parcel :	Lot 2 DP 1091253		

DoP Planning Officer Contact Details

Contact Name :	Kate Hanson		
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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name :	Tamara Prentice		
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Land Release Data

Growth Centre :	N/A	Release Area Name :	
Regional / Sub Regional Strategy :	North Coast Regional Plan 2036	Consistent with Strategy :	Yes

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MDP Number :		Date of Release :	
Area of Release (Ha) :	1.20	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	14
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment : **To the best of the knowledge of the Regional team, the Department's Code of Practice in relation to the communications and meetings with Lobbyists has been complied with. Northern Region has not met with any lobbyist in relation to this proposal, nor has the Director been advised of any meetings between other departmental officers and lobbyists concerning this proposal**

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

Supporting notes

Internal Supporting Notes :

External Supporting Notes :

Adequacy Assessment

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

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives describes the intention of the planning proposal. The proposal intends to rezone Lot 2 DP1091253, at Beach Street, Bonny Hills from RU1 Primary Production to R1 General Residential and E2 Environmental Conservation, to permit future residential development and to protect ecological values on the site.**

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

Is an explanation of provisions provided? **Yes**

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal.**

The proposal will rezone the subject land part R1 General Residential and part E2 Environmental Conservation.

A 0.65:1 flood space ratio will be applied to the land being zoned R1.

A 450m2 minimum lot size (MLS) will be applied to the majority of the land to be zoned R1.

A 2000m2 MLS will be applied to part of the land on the eastern side of Beach Street which will be zoned part E2 and part R1. This is intended to enable the creation of a lot that incorporates approximately 550m2 of R1 zoned land and 1450m2 of E2 zoned land to

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enable a dwelling to be located outside the E2 Zone on the future lot.

A 2 hectare MLS will be applied to the proposed E2 zoned land on the western side of Beach St to facilitate its separation from the proposed R1 zoned land west of Beach Street.

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

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations

3.4 Integrating Land Use and Transport

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

Is the Director General's agreement required? No

c) Consistent with Standard Instrument (LEPs) Order 2006 :

d) Which SEPPs have the RPA identified?

SEPP No 14—Coastal Wetlands

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP (Rural Lands) 2008

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? Yes

If No, explain :

Mapping Provided - s55(2)(d)

Is mapping provided? Yes

Comment :

The planning proposal includes mapping which adequately shows the proposed and existing zoning, minimum lot size, and floor space ratio maps. These maps are considered to be suitable for community consultation purposes. Maps which comply with the Standard Technical Requirements for SI LEP Maps will need to be prepared before the LEP is made.

Community consultation - s55(2)(e)

Has community consultation been proposed? Yes

Comment :

The Planning Proposal indicates that community consultation will be undertaken and nominates a 28 - day consultation time frame. This is an appropriate time frame as the proposal is not considered to be a low impact proposal due to its location outside of the urban growth area and as it has minor inconsistencies with the strategic planning framework.

As Council has also proceeded with an alternate proposal to that originally submitted by the proponent, it is considered appropriate that the Gateway determination require Council to specifically notify the proponent in writing when community consultation commences, to ensure the proponent has an opportunity to review and comment on the proposal.

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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 :

Time Line

The planning proposal includes a project timeline which estimates the completion of the planning proposal in February 2018. A nine (9) month timeline is considered appropriate to ensure the RPA has adequate time to complete the exhibition, reporting, legal drafting and making of the plan.

Delegation

Council has requested a Written Authorisation to Exercise Delegation of the Minister's powers under s59 of the Environmental Planning and Assessment Act 1979 for this matter. It is considered appropriate that an authorisation be granted to Council as the proposal is essentially a local planning issue.

Overall Adequacy

The planning proposal satisfies the adequacy criteria by:

1. Providing appropriate objectives and intended outcomes.
2. Providing a suitable explanation of the provisions proposed for the LEP to achieve the outcomes.
3. Providing an adequate justification for the proposal.
4. Outlining a proposed community consultation program.
5. Providing a project time line

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The planning proposal seeks an amendment to the Port-Macquarie Hastings LEP 2011

Assessment Criteria

Need for planning proposal :

The planning proposal is not a result of any strategic study or report, however the site has been the subject of several requests for rezoning and numerous environmental investigations over a number of years.

The site is a split lot that straddles Beach Street in the Bonny Hills urban area. Saltwater Creek forms the southern and south-western site boundary. The Bonny Hills Conference Centre adjoins the site to the West. North of the site is undeveloped residential land fronting Beach Street and to the South are residential properties fronting Rodley Street. Bonny Hills Holiday Park is located to the east of the property.

The proposal seeks to amend Port Macquarie Hastings LEP 2011 (PMHLEP 2011) by changing the zoning of the site from RU1 Primary Production to part R1 General Residential and part E2 Environmental Conservation.

Proposed changes to the Lot Size Map include:

- a MLS of 450m2 for a majority of the proposed R1 Zone;
- a MLS of 2000m2 for the proposed E2 zone and part R1 zone on land east of Beach

Street and;

- a MLS of 2ha for the proposed E2 zone on land west of Beach Street;

These proposed MLSs are considered to be appropriate based on the site's environmental constraints as discussed below.

It is also proposed to amend the Floor Space Ratio Map and allow a maximum floor space ratio of 0.65:1 for the proposed residential zone land. This floor space ratio is considered to be appropriate as it is consistent with other R1 zoned land in Bonny Hills.

This planning proposal is a variation of the proposal lodged by the proponent to Council. Both Council and the proponent agree that the current zoning of the land is inappropriate. The proponent's proposal submitted to Council stated "the present rural zoning does not reflect the attributes of the site, is not compatible with surrounding urban land uses and does not protect the environmental values of the site. The proposed rezoning is the best way of ensuring adequate protection and permanent conservation of the riparian land, whilst allowing for infill residential development of the less sensitive areas of the site". While Council and the proponent both agree the current zoning is inappropriate, disagreement exists over the areas that should be zoned for residential or environmental conservation. The proponent believes a greater area of the site should be zoned for residential purposes, and sought to negotiate the rezoning of an existing residential allotment (Lot 1 DP 1091253) to environmental conservation, and possible dedication to Council, in return for residential zoning on part of the subject land (Lot 2 DP 1091253).

Council has not supported the proponent's rezoning layout due to historical ecological studies undertaken as part of a Local Environmental Study (LES) prepared approximately 10 years ago to support a former rezoning process for the land. This LES process confirmed the land has significant environmental values. During discussions with Council in response to their alternate rezoning layout, the proponent requested that Lot 1 be removed from the current proposal. Council has agreed to this request and the current proposal only applies to Lot 2.

In 2009, the ecological investigations of the site undertaken as part of the LES process identified the existence of an Endangered Ecological Community, core koala habitat and a Squirrel Glider colony on the land. The Department in 2009 also advised Council it would not support exhibition of a possible rezoning of the land until:

- adoption of a draft Koala Plan of Management associated with the development of Lot 1;
- written support from the Department of Environment and Climate Change; and
- conflict between bushfire management requirements and associated impacts on Koala habitat was resolved.

It is agreed that the existing rural zoning is inappropriate given the intrinsic ecological values and surrounding residential development. The current proposal considers the R1 General Residential and E2 Environmental Conservation zones and associated controls to be the most appropriate means of ensuring protection and ongoing conservation of ecological values of the site, whilst also allowing residential development on cleared areas that are easily serviced by existing infrastructure. Council's current proposal appears to better reflect the existing evidence base produced from the findings of the site investigations undertaken to date, and the likely development potential of the land, compared to the proponent's layout. It is noted that allowing the proposal to proceed at the present time will allow both the proponent and the Office of Environment and Heritage to review the currently available information, seek / provide updates if necessary, and provide comments on the suitability of the proposed zones before the matter is finalised. This is considered appropriate.

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Consistency with strategic planning framework :

North Coast Regional Plan (the Plan)

The proposal is generally consistent with the North Coast Regional Plan 2036 (the Plan). The Plan was launched in early 2017 and will guide the NSW Government's land use planning priorities and decisions to 2036. It provides an overarching framework to guide subsequent and more detailed land use plans, development proposals and infrastructure funding decisions.

Direction 1 of the Plan seeks to deliver environmentally sustainable growth in the region by limiting urban development to mapped urban growth areas. The site is not identified in an urban growth area; however minor and contiguous variations are able to be considered if they are in accordance with the Urban Growth Area Variation Principles (UGAVP). The proposal is considered to be in accordance with the UGAVP as the residential portion of the land is: serviced by existing infrastructure; avoids areas of high environmental value; does not contain important farmland; is not highly erodible or severely sloping and bushfire constraints have been factored into the proposed zoning configuration; is separated from incompatible land uses and; is unlikely to contain items of heritage.

Direction 22 of the Plan pursues the objective of delivering greater housing supply to meet the region's projected housing needs. It is anticipated the proposal will generate up to an additional 14 residential allotments in the Bonny Hills area, contributing to the LGAs minimum dwelling targets outlined in the Port Macquarie Local Government narrative. It is considered the proposal is consistent with this Direction and generally consistent with the vision for the North Coast region.

The proposal currently incorrectly refers to the Mid North Coast Regional Strategy and s117 Direction 5.1 Implementation of Regional Strategies. This should be updated including a discussion on the UGAVP prior to community consultation.

Port Macquarie-Hastings Urban Growth Management Strategy 2010-2031 (UGMS)

The proposal is not inconsistent with the objectives and outcomes of the Urban Growth Management Strategy 2011-2031 (the UGMS) which was endorsed by the Department in May 2011. Whilst the site is not identified in the UGMS, the site immediately adjoins existing residential development and could reasonably be considered as a logical extension of existing development. Moreover, the UGMS stipulates that Council will continue to investigate opportunities for infill development across the LGA and infill proposals such as this are considered to be consistent with this objective.

SEPPS

The proposal lists the following State Environmental Planning Policies (SEPPs) that are applicable to the land:

SEPP 14 – Coastal Wetlands

A small area of mapped SEPP14 wetlands extends onto the north-eastern portion of the site, east of Beach Street. The council report indicates a site inspection was undertaken which confirmed a small patch of remnant wetland species within the mapped area. The proposal seeks to zone this land E2 Environmental Conservation, consistent with the objectives of SEPP14 to preserve and protect coastal wetlands.

SEPP 44 – Koala Habitat Protection

Previous investigations of core koala habitat on the site have revealed extensive use of the site by koalas. The area of the site containing koala habitat trees is to be included within the proposed E2 Environmental Conservation zone. Whilst there are two isolated koala food trees located with the proposed R1 General Residential zone east of Beach Street, the proposal notes that the primary components of koala habitat on the land are to be zoned E2. The proposal is therefore considered to be consistent with the SEPP and any impacts of future development on koala habitat in the eastern portion of the site will be addressed at development application stage and through a Koala plan of management.

SEPP 55 – Remediation of Land

Council has noted that an analysis of historical aerial imagery indicates that the site has

been heavily vegetated since the 1940s. The eastern portion of the site appears to have been cleared in the 1980s in association with development of the caravan park. Moreover, there are no approvals recorded for the property for any contaminating land use. No likely potential contamination of the site has therefore been identified and this matter can be appropriately considered further if required at the development application stage.

SEPP (Rural Lands) 2008

The proposal is considered to be consistent with the SEPP as:

- the proposal balances the social, economic and environmental interests of the community;
- biodiversity and native vegetation is protected through the use of the proposed E2 zone;
- the land is not mapped as important farmland as identified in the Mid North Coast Farmland Mapping project and is considered to have limited agricultural value given the size, existing nature and location of the property; and
- the proposal is consistent with the urban growth area variation criteria contained in the North Coast Regional Plan.

The proposal is consistent with all other applicable State Environmental Planning Policies.

Section 117 Directions

A number of S117 Directions apply to this Planning Proposal. The proposal is consistent with all relevant S117 Directions except in relation to the following:

Direction 1.2 Rural Zones. The proposal is inconsistent with this Direction as it seeks to rezone RU1 Primary Production to R1 General Residential and E2 Environmental Conservation. It is considered that the inconsistency is of minor significance due to the size, location, and significant ecological value of the site and its consistency with the North Coast Regional Plan 2036 UCAVP. Similarly, the land is not mapped as important farmland in the Mid North Coast Farmland Mapping project.

Direction 4.1 Acid Sulfate Soils

The proposal is inconsistent with this Direction as the site is mapped as having Class 3 and Class 2 Acid Sulfate Soils and the current rezoning is not supported by an acid sulfate soils study. This inconsistency is considered to be of minor significance as:

- the Class 2 soils are located adjacent the creek line and would be fully contained within the proposed E2 Environmental Conservation zone;
- the remainder of the site is mapped as Class 3 Acid Sulfate Soils and proposed for residential use, however a preliminary Acid Sulfate Soil Assessment submitted with the proposal indicates that there are no Actual Acid Sulfate Soils present on site (but potential Acid Sulfate Soils may be encountered beneath RL 0m AHD, approximately 3m from the surface in the west, and 4m from the surface in the east of the site); and
- further consideration regarding this issue can be adequately addressed at the development application stage as required by the acid sulfate provisions of PMHLEP 2011.

Direction 4.4 Planning for Bushfire Protection. This Direction is relevant as the Planning Proposal will affect land that is identified as bushfire prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

Environmental social
economic impacts :

Ecological Assessment

Previous ecological investigations have confirmed the property contains areas of habitat significance for at least five threatened fauna species, and an EEC – Swamp Sclerophyll Forest – was found to be prevalent along the riparian corridor which runs adjacent the south-western boundary of the site. Coastal Wetlands have also been identified in the north corner, east of Beach street.

Furthermore, the study found the property contains a colony of Squirrel Gliders and Core Koala Habitat that is considered to form both a key part of local Koala habitat and constitute a substantial portion of a significant local corridor connecting the property to habitat east, north, west and immediately south of the site. Accordingly, Council have

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proposed to conserve the EECs, coastal wetlands and koala food trees through the provision of E2 Environmental Conservation. This is considered appropriate.

In addition, the proposed E2 zone will help protect sensitive riparian areas along Saltwater Creek. The proposal indicates that Water Sensitive Urban Design measures will be required in the residential zones to maintain water quality levels.

Acid Sulfate Soils

Refer to discussion above

Potential Contamination

Refer to discussion above

Bushfire

Refer to discussion above

Flooding

The subject site is not mapped as being flood prone under Council's flood policy, however a Flood and Drainage Study submitted in support of a previous application identifies a 100 year ARI and PMF level associated with flooding and storm events affecting Saltwater Creek. The proposed residential zone is located above ARI storm event level but a small area to the north, west of Beach Street, is affected by the PMF. It is considered that this issue can be adequately addressed through flood planning provisions in PMHLEP 2011 and is not an impediment to rezoning.

Cultural Heritage

An archaeological study of the land was undertaken as part of the LES process in 2006. The study was undertaken in consultation with the Bunyah Local Aboriginal Land Council (LALC). The study found no archaeological or cultural constraints to the development of the land and the LALC raised no objection. It is considered appropriate that this issue again be referred to the LALC and also to the Office of Environment and Heritage for consideration.

Traffic and Services

The site is unlikely to generate adverse traffic impacts and is considered to be well located to existing services and facilities. Whilst electricity and telecommunication facilities are expected to be satisfactory, Council has indicated it will undertake consultation with Essential Energy and Telstra as part of the current proposal.

Social and Economic

The planning proposal has given consideration to social and economic impacts of the proposed amendment. The proposal will enable a small area of infill development on the site consistent with existing surrounding residential development. It is considered the proposal will have positive social and economic impact through the release of land for residential development.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	9 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Office of Environment and Heritage NSW Rural Fire Service Other		

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

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

If no, provide reasons :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Planning Proposal.pdf	Proposal	Yes
Planning Proposal Cover.pdf	Proposal Covering Letter	Yes
Ordinary Council Meeting Report 19042017.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.2 Rural Zones**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.3 Heritage Conservation**
- 3.1 Residential Zones**
- 3.3 Home Occupations**
- 3.4 Integrating Land Use and Transport**
- 4.1 Acid Sulfate Soils**
- 4.3 Flood Prone Land**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 6.1 Approval and Referral Requirements**

Additional Information : **It is recommended that the planning proposal proceed subject to the following conditions:**

- 1. Prior to the commencement of community consultation, Council is to update the planning proposal to:**
 - (a) delete discussion on consistency with the Mid North Coast Regional Strategy and replace with discussion on the consistency with the North Coast Regional Plan 2036 including assessment of the proposal against the Urban Growth Area Variation Principles;**
 - (b) delete discussion on S117 Direction 5.1 Implementation of Regional Strategies and include discussion on Direction 5.10 Implementation of Regional Plans; and**
 - (c) include relevant supporting background studies that have informed the planning proposal.**

2. After the planning proposal has been updated in accordance with condition (1) and prior to commencement of community consultation, consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:

- Office of Environment and Heritage
- NSW Rural Fire Service
- Local Aboriginal Land Council

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.

The proposal is to be updated prior to community consultation to incorporate any necessary changes arising from consultation with State agencies or organisations.

3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:

- (a) the planning proposal must be made publicly available for a minimum of 28 days;
- (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 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Environment 2016);
- (c) a letter is to be sent to the landowner advising of the proposal and seeking comment.

4. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the 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).

5. The timeframe for completing the LEP is to be 9 months from the week following the date of the Gateway determination.

It is also recommended that:

6. The Secretary's delegate determines that the inconsistencies with s117 Directions 1.2 Rural Zones and 4.1 Acid Sulfate Soils are justified in accordance with the terms of the directions.

7. The Secretary's delegate note the outstanding inconsistency of the proposal with s117 Direction 4.4 Planning for Bushfire Protection and;

8. That a written authorisation to exercise plan making delegations be issued to Port-Macquarie Hastings Council.

Supporting Reasons :

The reasons for the recommendation are as follows:

1. The proposal will contribute to the identified demand for R1 zoned land in the Port Macquarie - Hastings LGA which is identified in the Port Macquarie - Hastings Growth Management Strategy 2011-2031.
2. The land proposed to be zoned residential is relatively unconstrained and serviced by existing infrastructure and the existing rural zone is considered inappropriate given the location and intrinsic ecological values.
3. The proposal is inconsistent with the strategic planning framework, however the inconsistencies are considered to be of minor significance.

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Signature:



Printed Name:

Craig Diss

Date:

19/6/17