

(FUTURE) PUBLIC EXHIBITION DATES

(Start) to (Finish)

Planning Proposal under section 55 of the EP&A Act

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

Proposed rezoning of land

Lot 2 DP 1091253

Beach Street Bonny Hills

PMHC ref: PP2016 - 10.1

DP&E ref: PP_2017_PORTM_*
PP2014-000111

Date: 22/05/2017



**PORT MACQUARIE
HASTINGS**

Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Reported to Council (section 55)	19 April 2017
Referred to Dept of Planning (sec 56 (1))	22 May 2017
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: PP2016 - 10.1

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

Department of Planning & *

Environment reference:

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Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on / /2017 by the undersigned Council delegate:

Signed

Name Peter Cameron

Position Group Manager Strategic Land Use 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

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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 (PMHLEP) 2011*. It will be assessed by Port Macquarie-Hastings Council, the NSW Department of Planning and Infrastructure and used for public participation on the proposed LEP amendment.

Background

Proposal	Rezoning of land
Property Details	Lot 2 DP 1091253 Beach Street Bonny Hills
Current Land Zone	RU1 Primary Production
Applicant Details	Port Macquarie-Hastings Council
Land owner	Pacific Drive Estate Pty Ltd

This section of the planning proposal will be updated prior to public exhibition.

Part 1 - Objectives or Intended Outcomes

The intended outcomes of this planning proposal are:

- 1) To permit future residential development of part of Lot 2 DP 1091253 (the site), for housing, and
- 2) To protect ecological values on the site.

The site adjoins residential zoned land to the north and south and rural land to the west, and east.

Figure 1 below shows the location of the site in context of the Bonny Hills urban area. The plan at Figure 2 shows the location of the site in relation to existing zoned residential land and dwellings in the surrounding locality.



Figure 1: Locality context

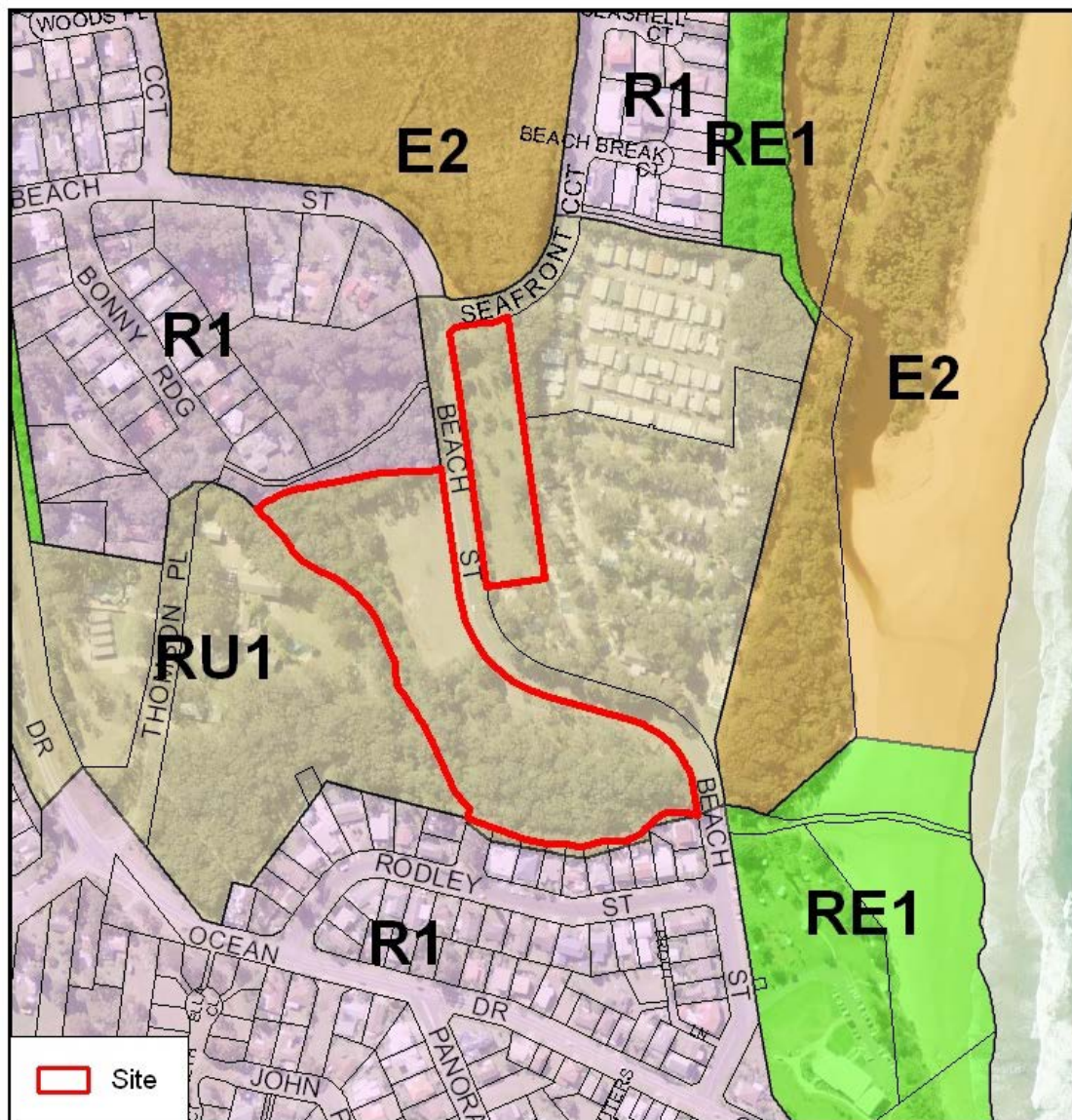


Figure 2: Site context

Part 2 - Explanation of Provisions

The intended outcomes are proposed to be achieved by making the following changes to Council's principal planning instrument, *Port Macquarie-Hastings Local Environmental Plan* (PMHLEP) 2011:

- Amendment to the PMHLEP 2011 **Land Zoning Map** to change the zoning of the site from RU1 Primary Production to part R1 General Residential, and part E2 Environmental Conservation, as indicated in Figure 3.
- Amendment to the PMHLEP 2011 **Lot Size Map** as indicated in Figure 4. These amendments include:
 - a minimum lot size of 450 square metres for the majority of the proposed R1 Zone land.
 - in respect to the proposed E2 Zone on the eastern side of Beach St, a minimum lot size of 2,000 square metres for land that will contain the E2 zone (about 1,450 square metres) and about 550 square metres of proposed R1 zone. The intent is to allow the creation of a lot that contains a house site in the R1 Zone and the residue of E2 Zone on the eastern side of Beach Street.
 - in respect to the E2 Zone on the western side of Beach Street, a minimum lot size of 2ha. This will allow Council to consider future subdivision of land on the western side of Beach Street. Any future application to subdivide the land will be required, through the development assessment process, to address long term ownership and management of the E2 Zone.
- Amendment to the PMHLEP 2011 **Floor Space Ratio Map** to allow a maximum floor space ratio of 0.65:1 for the residential zone land, as indicated in Figure 5.

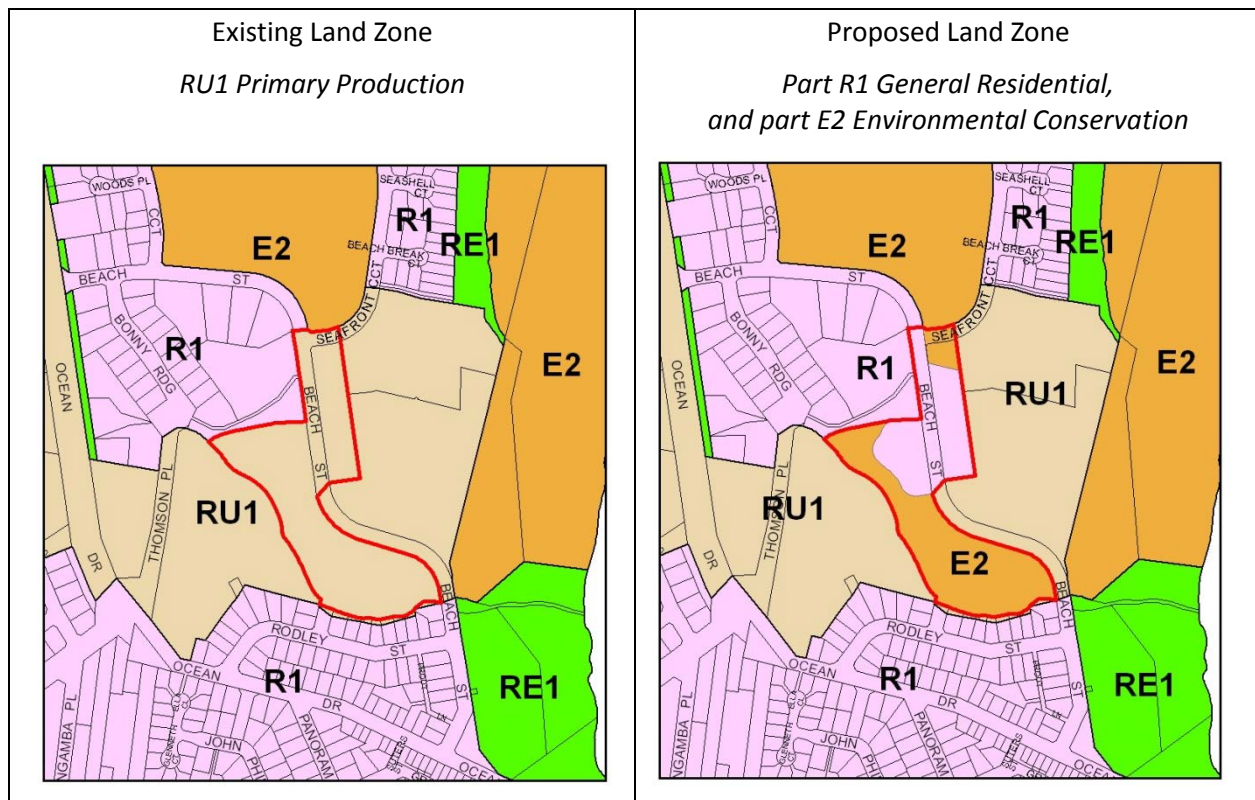


Figure 3: Land zone - existing & proposed

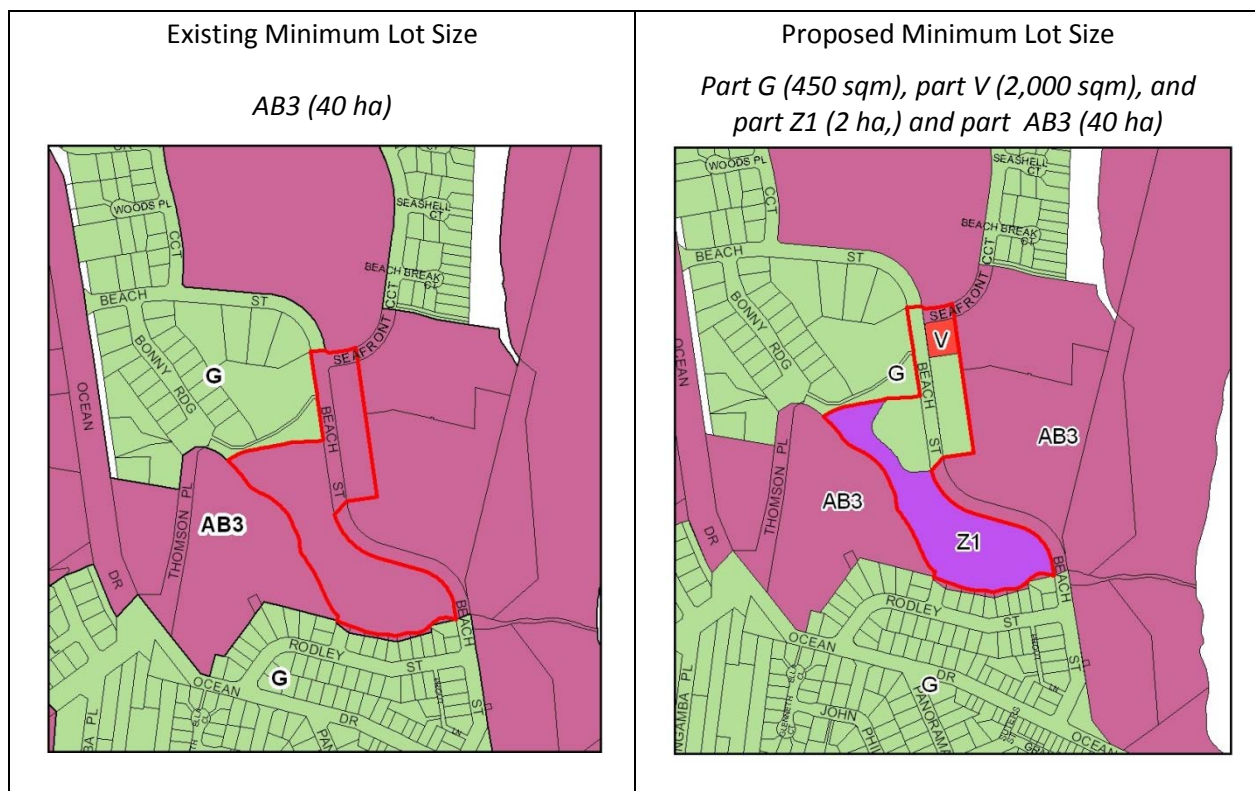


Figure 4: Lot size - existing & proposed

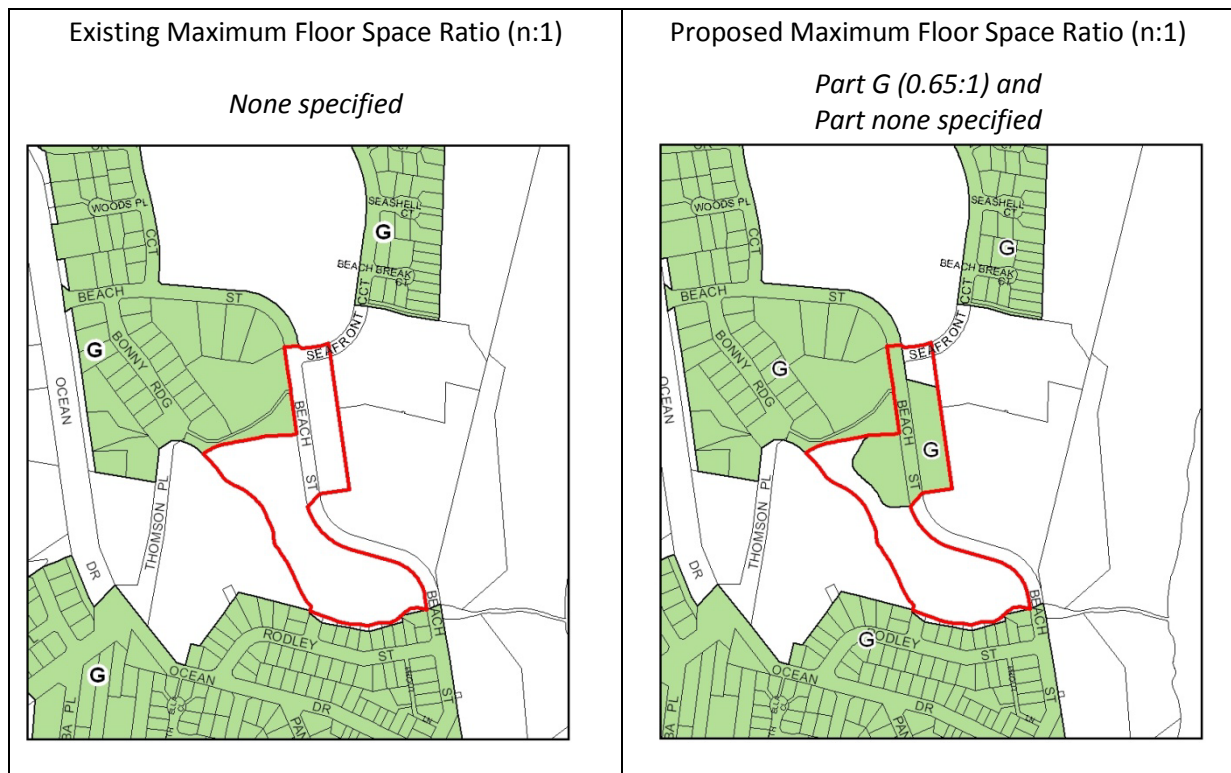


Figure 5: Floor space ratio - existing & proposed

Part 3 – Justification

Section A - Need for the planning proposal.

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

The site has been the subject of a number of requests for rezoning. Ecological investigations of the site in 2009 identified the existence of an Endangered Ecological Community and core koala habitat on the site. Discussion and negotiations with the applicant for rezoning stalled, primarily due to the requirement for a koala plan of management for the site not being endorsed by the Department at that time.

A new rezoning request was lodged in 2016. No additional ecological assessment was provided. The request sought a negotiated outcome to rezone existing residential zone to environmental conservation zone on an adjoining lot, together with possible dedication to Council, in return for residential zoning on part of the subject land.

The request for rezoning was considered in a report to Council dated 19 April 2017. Council did not support the request for rezoning as submitted and sought to negotiate an appropriate zoning for the site, together with securing ecological values in the long term.

During the course of assessment, the applicant undertook clearing of the site for the purposes of “agriculture”, which is permissible in the existing rural zone. Council formed the view that the existing rural zone was inappropriate having regard to the location of the land and its intrinsic ecological values. Council resolved to prepare this Planning Proposal to protect the ecological values and to allow limited residential development on cleared areas of the site.

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

The current rural zone is considered inappropriate having regard to the urban context, and the ecological values, of the site.

Discussion with the Office of Environment and Heritage indicated that protection of the ecological values of the site is not ensured under the Native Vegetation Act due to the provisions for exempt clearing for agricultural purposes.

The proposal is considered the most appropriate means of ensuring protection and ongoing conservation of ecological values of the site. The proposal also allows residential development on cleared areas of the site that are able to be serviced for urban development.

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?

The Regional Strategy identifies the need to conserve the natural environment and to extend areas of high biodiversity value. The proposal is consistent with these objectives by zoning areas of high environmental value to E2 Environmental Conservation.

Whilst the site is not identified as part of an urban growth area in the North Coast Regional Plan, the proposal is only for a small amount of infill residential development on existing cleared land and represents a minor amendment to the urban growth area in this location.

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

Infill proposals such as this are able to be considered by Council in accordance with the Port Macquarie-Hastings Urban Growth Management Strategy, which was endorsed by the NSW Department of Planning and Environment in May 2011.

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

An assessment of consistency with State Environmental Planning Policies (SEPPs) of relevance is below.

<i>SEPP</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 14 – Coastal Wetlands	Yes	<i>Ensures coastal wetlands are preserved and protected for environmental and economic reasons.</i> A small area of mapped SEPP 14 wetlands extends onto the site. It is proposed to zone this land E2 Environmental Conservation, consistent with the objectives of SEPP 14.
No 44 - Koala Habitat Protection	Yes	<i>Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range.</i> Areas of the site containing koala habitat trees are to be included within the E2 Environmental Conservation Zone. There are two isolated koala food trees proposed to be included in the R1 General Residential Zone. It is considered that the primary components of koala habitat on the land are to be zoned E2 and the proposal is considered to be consistent with SEPP 44.
No 55 - Remediation of Land	Yes	<i>Introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated.</i>

		Aerial imagery in 1940, 1963 and 1983 indicate the site was heavily vegetated. In the 1983 photo, there is a small area of clearing on the south eastern area associated with development of the caravan park that is now Rainbow Beach Holiday Village. At that time, part of the land formed part of the caravan park site. This was excised from the caravan park site when Beach Street was dedicated as public road and constructed in the 1990s. Clearing of part of the land occurred around the time of construction of the extension of Beach Street from Seafront Circuit to Rodley Street. There are no approvals recorded for the property for any contaminating land use.
Rural Lands (2008)	Yes	<i>The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The SEPP contains a number of 'Rural Planning Principles' that must be considered in preparing any planning proposals affecting rural land.</i> The site has not been identified as regionally significant farmland and is considered to have limited agricultural value due to its size and location.

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

An assessment of consistency with Ministerial Directions of relevance is below.

1. Employment and Resources

<i>S117 Direction</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 1.2 - Rural Zones	No	<i>The objective of this direction is to protect the agricultural production value of rural land.</i> The proposal is inconsistent with the terms of this direction because a proposal must not rezone land from a rural zone to a residential zone. As indicated in consideration of SEPP Rural Land (2008) above, this inconsistency is justifiable on the basis that the rural production value of the land is not considered to be a limiting factor in a rezoning of the land as proposed.
No - 1.5 Rural Lands	Yes	<i>This direction aims to protect the agricultural production value of rural land and to facilitate the orderly and economic development of rural lands for rural and related purposes.</i> The land is not considered to provide significant agricultural production land.

2. Environment and Heritage

<i>S117 Direction</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 2.1 - Environmental	Yes	<i>The objective of this direction is to protect and conserve environmentally sensitive areas.</i>

Protection Zones		It is proposed to protect ecological values on the site in an E2 Environmental Conservation zone.
No 2.3 - Heritage Conservation	Yes	<i>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</i> An assessment report by Amos Donovan, Bunyah Local Aboriginal Land Council, dated 18 February 2006 did not identify any evidence of Aboriginal occupation of the site, but recommended monitoring of any future earthworks during development of the site. It is proposed to consult with the LALC and OEH following a Gateway determination.

3. Housing, Infrastructure and Urban Development

<i>S117 Direction</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 3.1 - Residential Zones	Yes	<i>The objectives of this direction are to provide for existing/future housing needs, make efficient use of existing infrastructure and minimise the impact of residential development on the environment and resource lands.</i> The proposal relates to a small amount of residential infill (approx 1.2ha), which will utilise existing services and infrastructure. Significant ecological values on the land are to be zoned E2 Environmental Conservation.
No 3.3 - Home Occupations	Yes	<i>The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.</i> No change is proposed to the current provisions of PMHLEP 2011 which permit home occupations to be carried out in dwelling houses without the need for development consent.
No 3.4 - Integrating Land Use and Transport	Yes	<i>This direction aims to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives:</i> <i>(a) improving access to housing, jobs and services by walking, cycling and public transport, and</i> <i>(b) increasing the choice of available transport and reducing dependence on cars, and</i> <i>(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and</i> <i>(d) supporting the efficient and viable operation of public transport services, and</i> <i>(e) providing for the efficient movement of freight.</i> There is an existing bus service that connects Kendall with Port Macquarie via Bonny Hills. The route is along Ocean Drive, and the nearest bus stop is about 600m from the proposed R1 Zone area. There is a neighbourhood shop located about 600m from the site, and a neighbourhood business centre about 1km from the site. A

		Public School about 2km from the site. The site is considered to be well located to existing services and facilities.
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4. Hazard and Risk

<i>S117 Direction</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 4.1 - Acid Sulfate Soils	Yes	<i>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulphate soils.</i> The site is mapped as part Class 2 and part Class 3 Land. The area proposed be zoned for residential development is Class 3 Land, meaning acid sulfate soils may be encountered beyond 1m below natural surface level. Clause 7.1 of PMHLEP 2011 aims to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. These provisions ensure potential impacts from acid sulphate soils will be assessed at the time development application is lodged for the site.
No 4.3 - Flood Prone Land	Yes	<i>This direction aims to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005; and that the provisions of an LEP on flood prone land are commensurate with flood hazard and include consideration of the potential flood impacts both on and off the subject land.</i> The site is not mapped as flood prone land under Council's flood policy. A Flood and Drainage Study of the site was undertaken by Umwelt (Australia) in 2008. The study identified a 100 year ARI and PMF level associated with flooding and storm events affecting Saltwater Creek. The proposed residential zone is located above the 100 year ARI storm event level. There is a very small area of the proposed residential zone that is affected by the PMF. Any future development of the site would be capable of ensuring development was located above the PMF if required. The 2008 Study also concluded that development of the site would not impact on flood levels beyond the boundaries of the site.
No 4.4 - Planning for Bushfire Protection	Yes	<i>The objectives of this direction are to protect life, property and the environment from bush fire hazards by discouraging the establishment of incompatible land uses in bush fire prone areas; and to encourage sound management of bush fire prone areas.</i> The site is mapped bushfire prone land. An initial bushfire report indicates future development for housing would require an APZ of 27m. The proposed extent of residential zone will provide for the provision of a 27m APZ within the residential zone.

		It is considered that the planning proposal: a) has regard to Planning for Bushfire Protection 2006, and b) provides for APZs to be contained within the residential zone to ensure future development will not be located in hazardous areas. Future development will be subject to Planning for Bush Fire Protection 2006 and the grant of a Bushfire Safety Authority to ensure adequate controls are imposed through development consent conditions, and c) ensures bushfire hazard reduction is permissible within the required APZs, and d) will allow for adequate APZs to be provided, and e) will allow for a perimeter fire trail around the residential lots, subject to design at development application stage, and f) allows development that will have access to adequate water supply for fire fighting purposes, and g) reasonably minimises the perimeter of the area of land and the hazard interface, and h) will enable consent conditions to control placement of combustible materials in the Inner Protection Area. Consultation with the RFS is proposed after a Gateway determination, as required by the Direction.
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5. Regional Planning

<i>S117 Direction</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 5.1 - Implementation of Regional Strategies	Yes	<i>The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.</i> The Regional Strategy identifies the need to conserve the natural environment and to extend areas of high biodiversity value. The proposal is consistent with these objectives by zoning areas of high environmental value to E2 Environmental Conservation. Whilst the site is not identified as part of an urban growth area, the proposal is only for a small amount of infill residential development on existing cleared land and represents a minor amendment to the urban growth area in this location.

6. Local Plan Making

<i>S117 Direction</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 6.1 - Approval and Referral Requirements	Yes	<i>The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.</i> The proposal is consistent with this direction.

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?

Previous ecological assessment identified key habitat areas on the site and it is proposed to protect these through the proposed E2 zone. The area to be zoned for residential development is predominately cleared, and allows for PAZs to be contained within the residential zone.

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

The proposed E2 Zone provides for reasonable buffers to the riparian areas adjacent Saltwater Creek. Any future development proposals will be required to incorporate WSUD facilities within the residential zone. These are considered capable of being contained within areas required for APZs.

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

The proposal will enable a small area of residential infill development on the site (approx 1.2ha) consistent with existing and future surrounding residential development. Social and economic impacts are expected to be negligible.

D - State and Commonwealth interests.

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

Direct vehicular access is available to Beach Street.

Sewer and water services are available and considered satisfactory to service future residential infill development of the site.

Electricity and telecommunications infrastructure is expected to be satisfactory. Consultation will occur with Essential Energy and Telstra regarding this aspect of the proposal prior to public exhibition.

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

Should the proposal be supported, the Department of Planning and Environment's gateway determination will specify consultation requirements.

Consultation with State agencies is expected to occur with the NSW Office of Environment and Heritage, the NSW Rural Fire Service and the Bunyah Local Aboriginal Land Council. As noted above, consultation will also occur with relevant electricity and telecommunications providers. *This section of the planning proposal will be updated prior to public exhibition.*

Part 4 – Mapping

Proposed map amendments to PMHLEP 2011 are described in Part 2 of this planning proposal.

Part 5 – Community Consultation

It is proposed to undertake community consultation for 28 days including notification in a local newspaper and written notification to adjoining landowners. In addition, the exhibition material will be available on Council's website and at the Port Macquarie Administration building for the duration.

This section of the planning proposal will be updated following public exhibition.

Part 6 – Project Timeline

This project timeline is based on anticipated dates and timeframes, though there can be unexpected delays.

Planning proposal process outline	2017							
	J	A	S	O	N	D	J	F
Commencement (date of Gateway determination)	X							
Timeframe for the completion of required additional information		X						
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						X		
Date Council will make the plan (if delegated)								X
Date Council will forward to the department for notification								X

