

(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 and reclassification of
Council-owned land, Lot 139 DP 815514,
Greenmeadows Drive, Port Macquarie**

PMHC ref: PP2014 - 11.1
DP&E ref: PP_2011_PORTM_*
Date: 15/12/2015



Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Reported to Council (section 55)	18/2/15
Referred to Dept of Planning (sec 56 (1))	15/12/15
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: PP2014 - 11.1

(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 15/12/2015 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 and reclassification of Council-owned land
Property Details	Lot 139 DP 815514, Greenmeadows Drive, Port Macquarie
Current Land Zone	RU1 Primary Production
Applicant Details	Port Macquarie-Hastings Council (Commercial & Business Services)
Land owner	Port Macquarie-Hastings Council

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 Lot 139 DP 815514, Greenmeadows Drive, Port Macquarie (the site), for housing with exception of the existing bushland in the western area of the site.
- 2) To provide certainty for the retention, rehabilitation and ongoing conservation of the bushland in the western area of the site.

The site adjoins vacant zoned residential and rural land to the south, Greenmeadows Park to the north, Lake Innes Nature Reserve to the west and residential housing to the east.

Figure 1 below shows the location of the site in context of the Port Macquarie 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

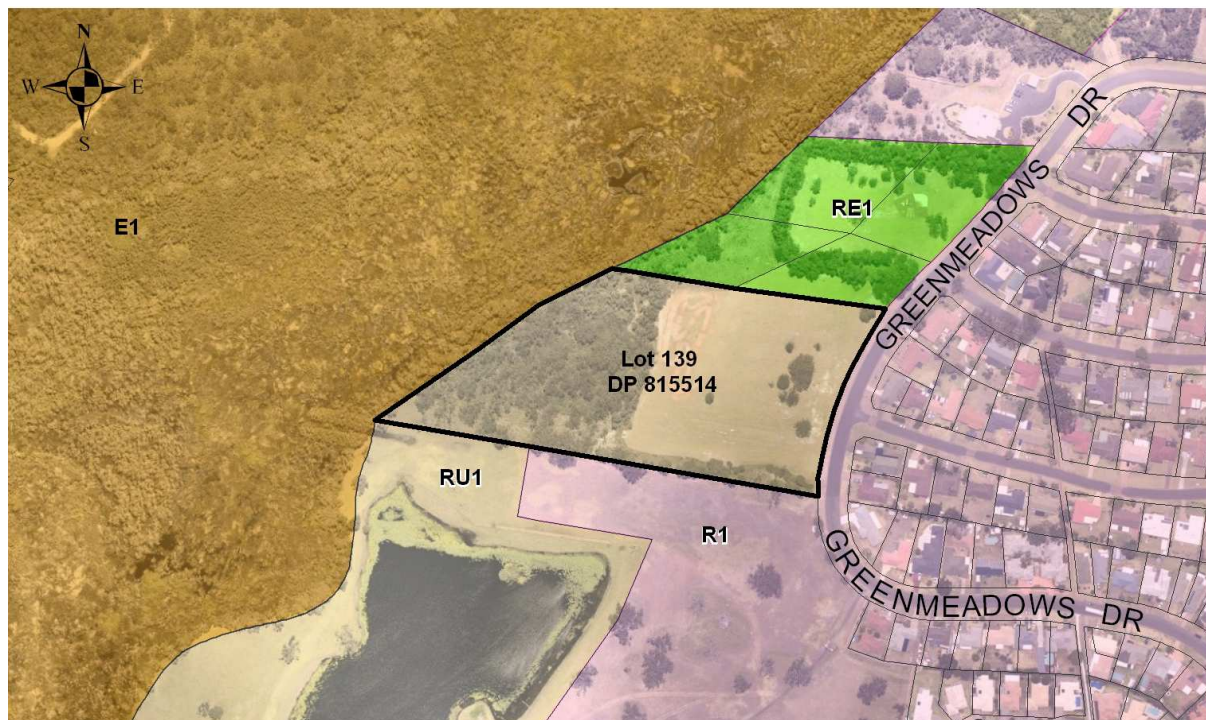


Figure 2: Site context

Part 2 - Explanation of Provisions

The intended outcomes are proposed to be achieved by making the following changes to Council's principle 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 partly R1 General Residential and partly E2 Environmental Conservation, as indicated in Figure 3.
- Amendment to the PMHLEP 2011 **Lot Size Map** to allow a minimum lot size of 450 square metres for future residential and minimum 1.2 hectare lot size for the proposed environmental lands, as indicated in Figure 4.
- Amendment to the PMHLEP 2011 **Height of Building Map** to allow a maximum height of 8.5 metres for future residential on the site, as indicated in Figure 5.
- Amendment to the PMHLEP 2011 **Floor Space Ratio Map** to allow a maximum floor space ratio of 0.65:1 for future residential on the site, as indicated in Figure 6.
- Amendment to **Schedule 4 (Part 3)** of the PMHLEP 2011 to reclassify the proposed Zone E2 area of the site from 'operational land' to 'community land', to ensure on-going public ownership and management of this area of the site for environmental purposes.

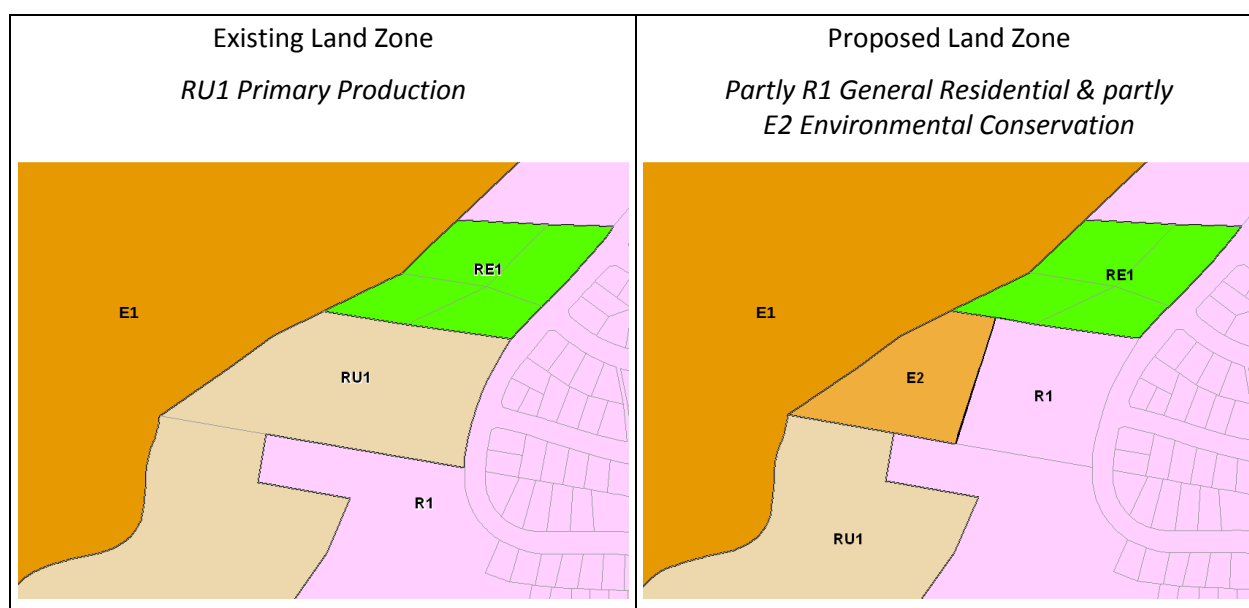


Figure 3: Land zone - existing & proposed

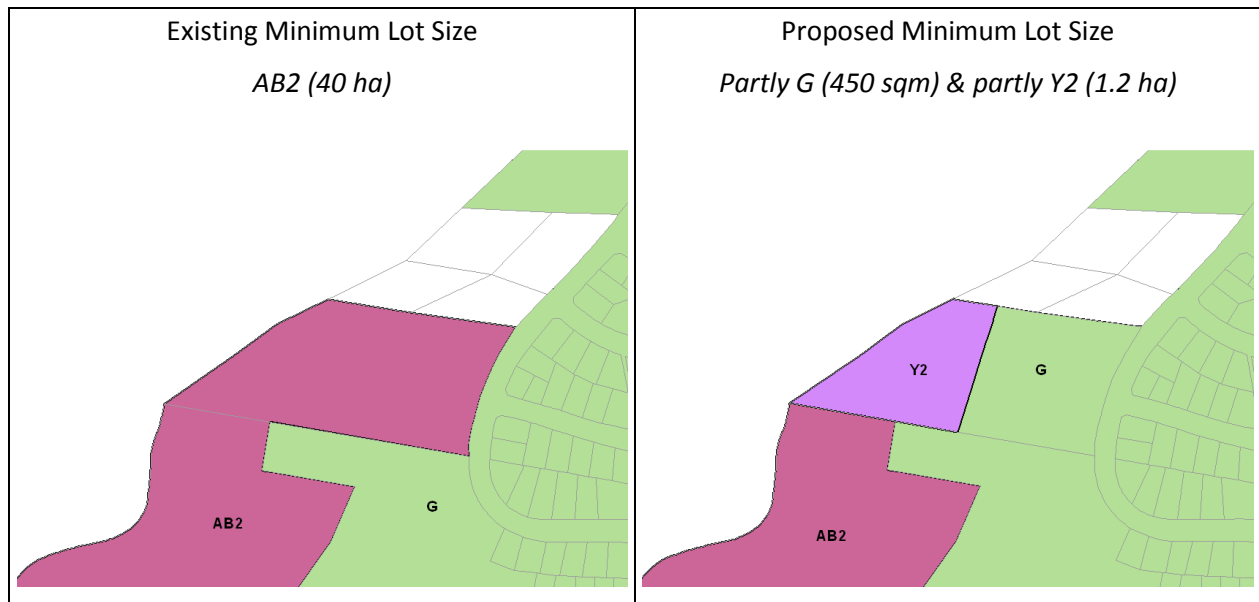


Figure 4: Lot size - existing & proposed

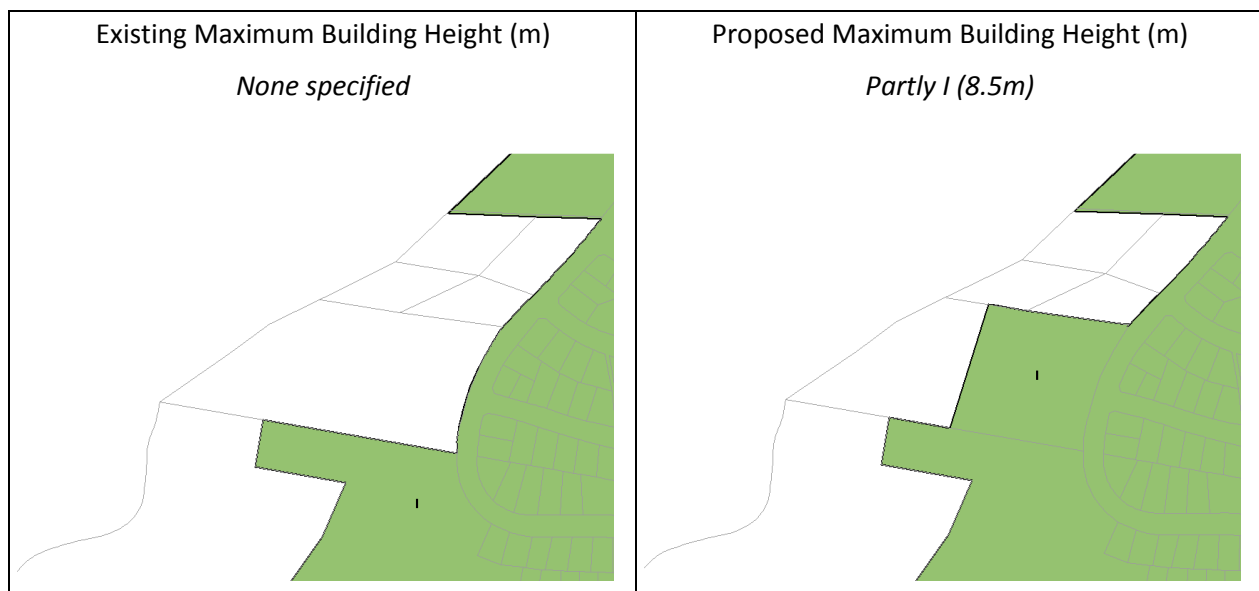


Figure 5: Height of buildings - existing & proposed

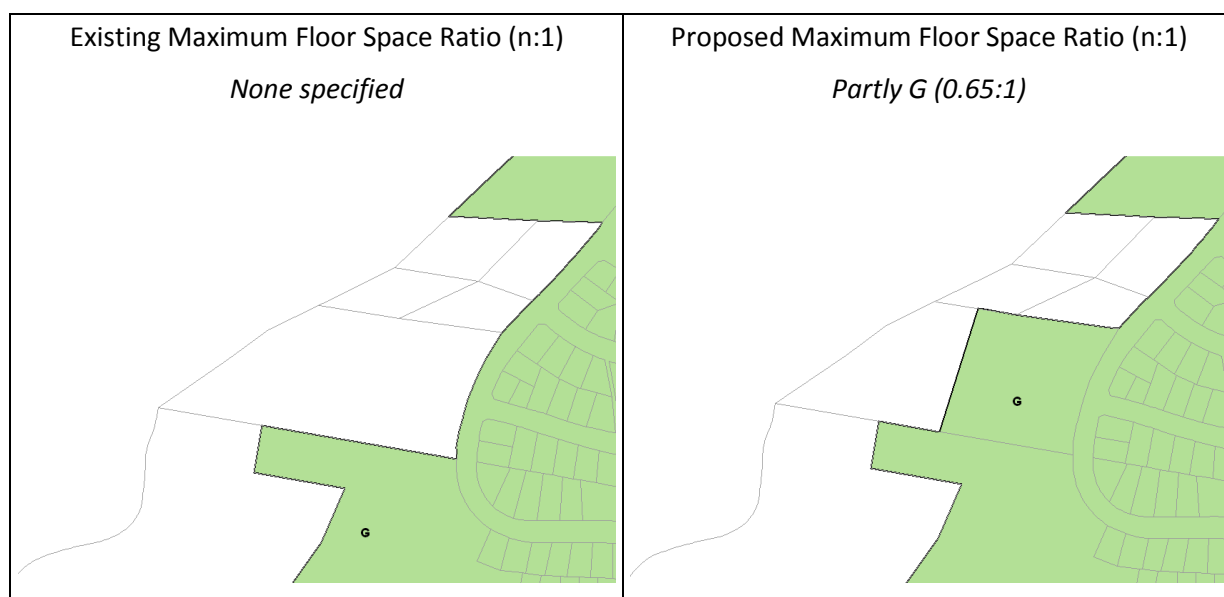


Figure 6: Floor space ratio - existing & proposed

Part 3 – Justification

Section A - Need for the planning proposal.

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

No.

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

The planning proposal is the only legal method of amending PMHLEP 2011 to permit development applications to be submitted, considered and determined for residential development on the site.

In addition, the proposal is considered the most appropriate means of ensuring protection and ongoing conservation of the bushland in the western area of the site.

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 site is not within the area identified for future urban development in the *Mid North Coast Regional Strategy 2006-2031*. Notwithstanding this inconsistency, justification is provided on the basis that the proposal is for infill residential only and represents a minor amendment to the R1 General Residential zone in this location.

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

Yes.

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.

SEPP	Consistent	Reason for inconsistency or comment
No 14 – Coastal Wetlands	Yes	<i>Ensures coastal wetlands are preserved and protected for environmental and economic reasons.</i> The site adjoins coastal wetlands to the west and is marginally affected along the north-western site boundary. The vegetation in the western area of the site is proposed to be preserved in an E2 Environmental Conservation zoning and protected in public ownership as 'community land' for the purpose of natural bushland.

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> Remnant gum trees in the cleared area of the site are not koala habitat and do not contain hollows. It is considered that removal of these trees can be justified via an environmental offset, as discussed in Section C of this planning proposal (see p 12).
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> The proponent's preliminary site contamination investigation (at Annexure 'A') advises that the land has historically been used for cattle grazing and that there is no indication of site contamination.
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> It is proposed to rezone an area of approximately 1.5 hectares (ha) from rural to residential and remnant vegetation in the west (approx 1.2 ha) to environmental conservation. The site has not been identified as regionally significant farmland and is considered to have limited agricultural value due to its size and location adjoining recreation land to the north and residential zoned and developed land to the south and east respectively.

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	No	<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> As per the commentary for direction 1.2 Rural Zones above.
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2. Environment and Heritage

<i>S117 Direction</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 2.1 - Environmental Protection Zones	Yes	<i>The objective of this direction is to protect and conserve environmentally sensitive areas.</i> It is proposed to protect remnant vegetation (approx 1.2 ha) in the western area of the site in an E2 Environmental Conservation zoning. In addition, these lands are proposed be rehabilitated and managed as natural bushland in public ownership via a reclassification from 'operational land' to 'community land'. Council's Property section has offered to pay for the establishment and maintenance of the 'community lands' from the proceeds of future sale. In this regard, a resolution of Council will be required prior to rezoning.
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> A search of the Aboriginal Heritage Information Management System did not identify any recorded/declared Aboriginal sites or places on or within 200m of the land. It is intended to consult with the NSW Office of Environment and Heritage and Birpai Aboriginal Land Council on this aspect of the proposal prior to public exhibition.

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 1.5 ha), with potential benefits associated with compact urban form and efficient use of existing infrastructure. No natural resources or identified areas of biodiversity or native vegetation are expected to be significantly impacted by the proposal.
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> Greenmeadows Drive is a designated bus route. In addition, the proposal provides an opportunity for enhancement of pedestrian and cycling connections in the locality with potential for a future connection to the Googik track via an extension of the track along the perimeter of the National park estate adjoining to the west and connection back through to Greenmeadows Park adjoining to the north.
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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 affected by Class 3 acid sulfate soils as per adjacent residential development. Clause 7.1 of PMHLEP 2011 aims to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. Therefore, at the time of applying to develop the site, consent will be required for the Class 3 land where any works are proposed to be more than 1m below the natural ground surface, or the water table is likely to be lowered more than 1 m below the natural ground surface. For the Class 2 land, approval will be required for any works below the natural ground surface and works by which the watertable is likely to be lowered.
No 4.3 - Flood Prone Land	No	<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 <i>Hastings River Floodplain Risk Management Study</i> (2012) classifies the land as Flood Fringe with a Low Hazard category. An open stormwater drain on the southern boundary is subject to inundation in the event of a 1:100 year flood. The planning proposal is inconsistent with clause (6)(c) of this

		direction because it is proposed to allow a significant increase in the development of the land. The 1:100 year flood level is estimated to be 2.43m Australian Height Datum (AHD) and the flood planning level is 3.33m AHD (i.e. 1:100 plus 400mm climate change allowance and 500mm freeboard). All ground levels and road infrastructure for future residential development will need to be constructed at a minimum 2.83m AHD and finished floor levels for dwellings, at a minimum 3.33m AHD. Being located on the fringe of the floodplain, development of the proposed residential area of the site (excluding the open stormwater drain on the southern boundary, as discussed in Part C of this planning proposal), is expected to have minimal impact. To get above the flood planning level, only minor filling will be required from nil at the Greenmeadows Drive frontage to approximately 400mm at the rear. Consequently, the inconsistency with this direction is considered to be of minor significance.
No 4.4 - Planning for Bushfire Protection	No	<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 as subject to bushfire due to the hazard to future residential from the remnant vegetation in the west. The planning proposal is inconsistent with the terms of this direction because a detailed bushfire hazard assessment report has not been prepared to address clause 6. Notwithstanding the above, a preliminary assessment has identified that as part of future development, a road will be required along the eastern edge of the remnant vegetation to manage bushfire hazard and edge effects. An Asset Protection Zone (APZ) of 33m is likely to be required to future dwellings, which could include road reserve. The aim is to avoid any responsibility to manage APZs for private development on the proposed Zone E2 environmental lands. As required by this direction, consultation will occur with the Commissioner of the NSW Rural Fire Service on this aspect of the proposal prior to public exhibition.

5. Regional Planning

<i>S117 Direction</i>	<i>Consistent</i>	<i>Reason for inconsistency or comment</i>
No 5.1 - Implementation of Regional Strategies	No	<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 proposal is inconsistent with the terms of this direction because the site is not within the area identified for future urban development in the <i>Mid North Coast Regional Strategy 2006-2031</i>. Notwithstanding this inconsistency, justification is provided on the

		basis that the proposal relates to a small infill proposal and represents a minor amendment to the R1 General Residential zone in this location. Infill proposals are able to be considered by Council in accordance with the <i>Port Macquarie-Hastings Urban Growth Management Strategy</i> , which was endorsed by the NSW Department of Planning and Environment in May 2011.
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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?

The subject site is generally cleared of timber with a small number of individual eucalypt trees scattered towards the front of the site and more dense forest located to the west. The remnant eucalypt trees in the cleared area are not Koala habitat and do not contain hollows.

A major stormwater drainage line along the southern site boundary of the proposed residential land is identifiable by a line of remnant vegetation of Broad-leaved Paperbark - Mixed Eucalypt Swamp Forest Complex. This vegetation does not provide any strategic links on a local or regional scale given that the site itself is largely cleared as is land to the south.

Future clearing of the eucalypts in the cleared area of the site and drainage channel will need to be provided as environmental offset on the proposed 'community land'. This has been agreed to by the proponent upfront so that clearing is able to occur at the time of developing the land. Council's Property Section has agreed to pay for the establishment and maintenance of the 'community lands' from the proceeds of future sale.

Future residential development adjacent to the remnant bush has the potential for edge effects to adversely affect the bushland. These impacts can be mitigated with the provision of a perimeter road to the edge of the remnant vegetation as per the requirements of *Port Macquarie-Hastings Development Control Plan 2013*.

In addition, the potential for APZ clearing to encroach into the remnant bush as a result of the 10/50 vegetation clearing code will be avoided through the 'community land' reclassification of this area of the site.

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

Stormwater drainage

The site is affected by an open stormwater channel which is recognised as a major drainage path and subject to localised flooding. The proponent has advised that it is intended to pipe stormwater and provide a road over the drain to increase the development potential of the land.

Council's stormwater engineer has advised that for future residential, the pipe would need a 1:5 year storm capacity and road over the drain would require a 1:100 year capacity for overland flow. Modelling of the drainage channel is able to occur at the time of applying to develop the land.

The deposited plan for the site currently shows a 2m wide easement for stormwater drainage along the full length of the southern boundary. The existing drainage channel however, is approximately 15m wide (max) and diverts across the front of the bushland at the western end of the site before draining into the adjoining Kooloonbung Creek.

If the drainage channel is rezoned to residential with the existing 2m wide easement, the risk to Council is that it may be required to acquire a drainage reserve from a future purchaser/developer. This situation can be avoided by widening the easement to cover the full width of the drainage channel as part of the planning proposal, with any reduction able to be considered at DA stage at the time of piping the drain.

Council's Property Section has agreed to engage a surveyor to amend the width of the easement to 15m along the southern boundary up to the point where it enters the proposed environmental lands. This easement is to be made in favour of Council as the drainage authority and will need to be in place prior to rezoning the land. As the remainder of the channel traverses the proposed environmental lands which is to be retained in public ownership, extension of the easement over this area is not necessary.

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 1.5 ha) 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 via Greenmeadows Drive.

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 Birpai 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.

To assist the community in understanding Council's financial interests in the proposal, certain requirements are summarised in a NSW Department of Planning and Environment *Local Environmental Plan Practice Note* (PN 09-003). A copy of Council's response to these requirements, together with a copy of the practice note is required to be part of the material displayed during public exhibition of the planning proposal.

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	2016						
	J	F	M	A	M	J	J
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

ANNEXURE 'A'

**Preliminary Site Contamination Investigation
Lot 139 DP 815514, Greenmeadows Drive, Port Macquarie**

Lot 139 Greenmeadows Drive Port Macquarie Contaminated Lands Report

An examination of Council records shows that the property appears to have same lot boundaries and same areas of clearing and vegetation as at present. A check of historic photos shows the property to have been vacant, rural land since the early 1980's. It is not known when the land was cleared however anecdotally local residents say that the land has been cleared for many years and occasionally was used for grazing cattle.

Council purchased the property on 16 January 1995 from Jeffrey & Associates Pty Ltd who had purchased the property on the same day from George Wimpey Australia Pty Ltd. Both of these vendors were local property development companies at the time.

The property has been marked non-rateable in Council's rates system with the use noted as 'Open Space - Public Reserve'.

Council Records

A Valuation Report by Bruce Noble Pty Ltd Port Macquarie on 30 September 1994 prior to Council purchase of the property cites the following description of the land:

"The site is flood-prone, the most flood-prone section being the western half. The eastern half of the property has been estimated, by consultant surveyor Phil Luke, to require the introduction of some 4750 sqm of filling to achieve the minimum habitable floor level".

"The site is near level, grassed sand. There is a stand of tea-tree, eucalypt and oak forest over the lower, western end of the property".

"The site is vacant, except for some rural fencing".

Anecdotal evidence

Jeff Walton, the Property Development and Leasing Coordinator Commercial Services & Industry Engagement Officer at Port Macquarie-Hastings Council for 30 years to March 2015 made the following file note:

"On the matter of a history of the site I have spoken with a couple of local people who have lived in Port Macquarie all their life with a result that this area was always used as a farm for grazing cattle".

Historical Aerial Maps - Annexures 1 to 4 attached

The following historical photographs from Council's Geographical Information System date from 1972 to 2005 and show the property to be partly forested on the rear portion and cleared to the front on Greenmeadows Drive throughout that period of 43 years.

The aerial photos do not show any stock on the property, so it appears that it has been mostly vacant for over 43 years. Council has not found any evidence of any buildings on the land or any evidence of any intensive agricultural, industrial or commercial activity and hence has no reason to suspect any form of contamination to be present.

Port Macquarie-Hastings Council

Date: 2.11.2015



Annexure 1

Lot 139 Greenmeadows Drive 1972



Annexure 2

Lot 139 Greenmeadows Drive Aerial 1997



Annexure 3

Lot 139 Greenmeadows Drive Aerial 2005



Annexure 4

Lot 139 Greenmeadows Drive Aerial 2009-2010