



Contact: Denise Wright
Phone: (02) 6641 6600
Fax: (02) 6641 6601
Email: Denise.Wright@planning.nsw.gov.au
Postal: Locked Bag 9022, Grafton NSW 2460

Our ref: PP_2013_PORTM_006_00 (13/07573)
Your ref: PP2011.9.4

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

Dear Mr Hayward,

Planning proposal to amend Port Macquarie-Hastings Local Environmental Plan 2011

I am writing in response to your Council's letter dated 30 April 2013 requesting a Gateway determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal (Amendment No. 24) to rezone land at Fernbank Creek Road, Fernbank Creek from RU1 Primary Production to part SP3 Tourist and part for environmental protection purposes.

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

I have also agreed the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 1.5 Rural Lands, 4.1 Acid Sulfate Soils and 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions.

The Minister delegated his plan making powers to councils in October 2012. It is noted that Council has now accepted this delegation, however has asked not to use its delegation for the making of this plan. I have considered the nature of Council's planning proposal and have decided to issue an authorisation for Council to exercise delegation to make this plan because the proposal is considered to be of local significance. Council should contact the regional office of the department should it require assistance in relation to the exercise of its delegation.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request to draft and finalise the LEP should be made directly to Parliamentary Counsel's Office 6 weeks prior to the projected publication date. A copy of the request should be forwarded to the department for administrative purposes.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Minister may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Denise Wright of the regional office of the department on 02 6641 6600.

Yours sincerely,



Neil McGaffin
Executive Director
Rural and Regional Planning

13.5.13

Gateway Determination

Planning proposal (Department Ref: PP_2013_PORTM_006_00): to rezone land at Fernbank Creek for tourist and environmental protection purposes.

I, the Executive Director, Rural and Regional Planning at the Department of Planning and Infrastructure as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Port Macquarie-Hastings Local Environmental Plan (LEP) 2011 to rezone land at Fernbank Creek Road, Fernbank Creek from RU1 Primary Production to part SP3 Tourist and part for environmental protection purposes should proceed subject to the following conditions:

1. Prior to undertaking public exhibition, Council is to update the planning proposal to include existing and proposed land zoning maps, which are at an appropriate scale and clearly identify the subject land.
2. Community consultation is required under sections 56(2)(c) and 57 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") as follows:
 - (a) the planning proposal must be made publicly available for a minimum of **28 days**; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs* (Department of Planning & Infrastructure 2013).
3. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act and/or to comply with the requirements of relevant S117 Directions:
 - Office of Environment and Heritage
 - Transport for NSW – Roads and Maritime Services
 - NSW Rural Fire Service (S117 Direction 4.4 Planning for Bushfire Protection)

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.

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 EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).



5. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 13th day of May 2013.



**Neil McGaffin
Executive Director
Rural and Regional Planning
Department of Planning and Infrastructure**

Delegate of the Minister for Planning and Infrastructure



WRITTEN AUTHORISATION TO EXERCISE DELEGATION

Port Macquarie-Hastings Council is authorised to exercise the functions of the Minister for Planning and Infrastructure under section 59 of the *Environmental Planning and Assessment Act 1979* that are delegated to it by instrument of delegation dated 14 October 2012, in relation to the following planning proposal:

Number	Name
PP_2013_PORTM_006_00	Planning proposal (Amendment No. 24) to rezone land at Fernbank Creek Road, Fernbank Creek from RU1 Primary Production to part SP3 Tourist and part for environmental protection purposes.

In exercising the Minister's functions under section 59, the Council must comply with the Department's "A guideline for the preparation of local environmental plans" and "A guide to preparing planning proposals".

Dated 13 May 2013

Neil McGaffin
Executive Director
Rural and Regional Planning
Department of Planning and Infrastructure

Attachment 5 – Delegated plan making reporting template

Reporting template for delegated LEP amendments

Notes:

- Planning proposal number will be provided by the department following receipt of the planning proposal
- The department will fill in the details of Tables 1 and 3
- RPA is to fill in details for Table 2
- If the planning proposal is exhibited more than once, the RPA should add additional rows to **Table 2** to include this information
- The RPA must notify the relevant contact officer in the regional office in writing of the dates as they occur to ensure the department's publicly accessible LEP Tracking System is kept up to date
- A copy of this completed report must be provided to the department with the RPA's request to have the LEP notified

Table 1 – To be completed by the department

Stage	Date/Details
Planning Proposal Number	PP_2013_PORTM_006_00
Date Sent to Department under s56	30/04/2013
Date considered at LEP Review Panel	09/05/2013
Gateway determination date	13/05/2013

Table 2 – To be completed by the RPA

Stage	Date/Details	Notified Reg Off
Dates draft LEP exhibited		
Date of public hearing (if held)		
Date sent to PCO seeking Opinion		
Date Opinion received		
Date Council Resolved to Adopt LEP		
Date LEP made by GM (or other) under delegation		
Date sent to DP&I requesting notification		

Table 3 – To be completed by the department

Stage	Date/Details
Notification Date and details	

Additional relevant information: