

Port Macquarie Hastings LEP 2011 Draft Amendment No 25 -to Rezone Land at Major Innes Road and Iona Avenue Port Macquarie

Proposal Title :	Port Macquarie Hastings LEP 2011 Draft Amendment No 25 -to Rezone Land at Major Innes Road and Iona Avenue Port Macquarie		
Proposal Summary :	Planning Proposal to rezone land at Major Innes Road and Iona Avenue, Port Macquarie for residential, environmental conservation and environmental management purposes.		
PP Number :	PP_2013_PORTM_003_00	Dop File No :	13/04443

Proposal Details

Date Planning Proposal Received :	04-Mar-2013	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 :	Major Innes Road		
Suburb :	City :	Port Macquarie	Postcode : 2444
Land Parcel :	Lots 6-8 DP 1094444		
Street :	Iona Avenue		
Suburb :	City :	Port Macquarie	Postcode : 2444
Land Parcel :	Lots 101 and 102 DP 1134660		

DoP Planning Officer Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	11.00	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	100
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	The Department of Planning Code of Practice in relation to communication and meetings with lobbyists has been complied with to the best of the Region's knowledge.		
Have there been meetings or communications with registered lobbyists? :	No		
If Yes, comment :	Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other Departmental officers and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting Notes : Council has requested an Authorisation to exercise delegation for the plan making functions in Section 59 of the Act.

Dwellings estimate is approximate only at this stage, as further planning will be required to determine the likely dwelling yield.

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 adequately describes the intent of the planning proposal. The proposal seeks to amend the Port Macquarie Hastings LEP 2011 to:

1. rezone part of the subject land from RU1 Primary Production to residential to:
 - enable residential development
 - enable further development of the St Columba Anglican School
2. rezone part of the subject land from RU1 Primary Production to either E2 Environmental Conservation or E3 Environmental Management to limit or prevent urban development on constrained land and protect significant vegetation and koala habitat.
3. amend the Land Reservation Acquisition Map to remove land already acquired for local road.

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 amend the Port Macquarie Hastings LEP 2011 by amending the relevant Land Zoning(LZN), Lot Size(LSZ), Floor Space Ratio(FSR), Height of Buildings(HOB) and Land Reservation Acquisition(LRA) map sheets.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

3.1 Residential Zones

* May need the Director General's agreement

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

Is the Director General's agreement required? **Yes**

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

d) Which SEPPs have the RPA identified?

SEPP No 65—Design Quality of Residential Flat Development

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 contains maps which show the subject land, the existing and proposed zoning, built form controls (LZN, LSZ, HOB and FSR) and the amendment to the Land Reservation Acquisition Map (LRA) for the land. The mapping is adequate.**

Council advice is that relevant replacement map sheets will be prepared for public exhibition.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **Port Macquarie Hastings Council proposes a 14 day public exhibition period for community consultation. The proposal is considered to be a low impact planning proposal since the proposal is consistent with surrounding land zonings and no significant planning issues have been identified. A 14 day consultation period is considered to be adequate.**

Project Time Line.

The planning proposal contains an estimated project time line for completion of the planning proposal within 6 months. The time line is considered to be realistic and appropriate and it is anticipated that the proposal will be completed in August 2013.

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 :

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 suitable project time line**
- 6. Providing evaluation criteria for delegation to be issued to the Council to make the plan**

Delegation of plan making functions is considered to be appropriate in this instance, as the proposal is consistent with relevant strategic planning instruments.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

The Port Macquarie Hastings LEP was made in November 2011. This planning proposal seeks an amendment to the Port Macquarie Hastings LEP 2011.

Assessment Criteria

Need for planning proposal :

The proposal is consistent with the Mid North Coast Regional Strategy that identifies part of the subject land (Lots 6, 7 and 8 DP 1094444) as a Proposed Future Urban Release Area. The land owners have requested that Council rezone the land to enable it to be developed for residential purposes. Council considers the proposed R3 Medium Density Residential will provide appropriate housing opportunities, in view of the proximity to the Lake Innes Shopping Centre and the proposed site of the Charles Sturt University campus.

The proposal to rezone the St Columba Anglican School site to R1 General Residential provides consistency with zoning of other school sites under the 2011 LEP. The current RU1 Primary Production does not permit further development of the school. The R1 rezoning will allow the school to be identified as an educational establishment in a prescribed land use zone under clause 27 of the Infrastructure SEPP. Future development of the school can then proceed with consent or as complying development.

The planning proposal also seeks to extend the E3 zone over a Crown road reserve on the northern boundary of the land. Council's intent is to remove residual rural areas from mapping sheets. It is also noted that the land contains Secondary Koala Habitat and the zoning is appropriate in the circumstances.

The planning proposal will also amend the Land Reservation Acquisition Map sheet to remove land already acquired for public road purposes.

The planning proposal identifies a net community benefit likely to result from additional housing in proximity to a proposed university campus and an existing shopping centre. The proposal will also permit further development of the St Columba school to meet the educational needs of the surrounding community.

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The proposal also applies appropriate environmental zoning and development controls to protect and maintain important natural values of the land.

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Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The proposed rezoning is not inconsistent with the MNCRS. Part of the land is identified as a Proposed Future Urban Release Area and as an Urban Investigation Area within Council's Urban Growth Management Strategy 2010-2031. While the proposal involving the St Columba Anglican School is unrelated to any strategy, Port Macquarie is identified as a Major Regional Centre in the MNCRS. Zoning of schools in accordance with the surrounding zone is consistent with Department policy. Further development of the school will meet the demands for education choice in the region.

SEPPs

The planning proposal identifies SEPP 65 – Design Quality of Residential Flat Development as being relevant to the proposed rezoning. The proposal is considered to be consistent with the provisions of the SEPP.

Council's planning report refers to SEPP 44 Koala Protection as the land contains koala habitat. The habitat will be contained within the E2 and E3 zones and not affected by residential subdivision. However further consideration of koala issues will be made at development application stage. The proposal is considered to be consistent with the provisions of the SEPP.

S117 Directions.

The Council identifies the following 117 Directions as applying to the proposal: 3.1 Residential Zones, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bush Fire Protection, and 5.1 Implementation of Regional Strategies. Directions 1.2 Rural Zones and 1.5 Rural Lands are also relevant to the proposal.

Of the above S117 Directions, the proposal is inconsistent with Directions 1.2, 1.5, 4.1 4.3 and 4.4.

Direction 1.2 Rural Zones provides that a planning proposal shall not rezone land from rural to residential. A planning proposal may be inconsistent with this direction if the provisions which are inconsistent are justified by a strategy, a study or a regional strategy or are of minor significance. The land to be zoned R3 is identified for urban use in the MNCRS and the Port Macquarie Hastings Urban Growth Management Strategy (PMHUGMS). The inconsistency of the proposal is justified as the land is within the PMHUGMS approved by the Director General.

Direction 1.5 Rural Lands provides that a planning proposal should not affect land within a rural or environmental protection zone or reduce the minimum lot size unless consistent with the Rural Planning Principles or Rural Subdivision Principles of the SEPP (Rural Lands). The planning proposal seeks to rezone land for urban use. The direction provides that a planning proposal may be inconsistent with this direction if the land is identified in a strategy which considers the objectives of this direction and is approved by the Director General or the rezoning is of minor significance. Therefore the inconsistency of the proposal is justified as the land is included in the PMHUGMS approved by the Director General .

Direction 4.1 Acid Sulfate Soils is relevant to the proposal. The direction provides that a planning proposal shall not permit the intensification of land containing acid sulfate soils unless a study of the land assessing its suitability has been conducted.

The draft plan proposes to rezone land from RU1 Primary Production to R1 General Residential, R3 Medium Density Residential, E2 Environmental Conservation and E3 Environmental Management. The land contains class 2 acid sulfate soils located primarily on land proposed for either E2 and E3 zoning. A small area of Class 2 acid sulfate soil is located on the St Columba sites northern boundary. It is considered that the acid sulfate soil provisions in the LEP are sufficient to address any issues that may arise at development application stage. The inconsistency of the planning proposal with the direction is therefore considered to be of minor significance.

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Direction 4.3 Flood Prone Land is relevant as the planning proposal creates, removes or alters a zone or provision that affects flood prone land. The direction provides that a planning proposal may be inconsistent with the Direction if a flood risk management plan has been prepared or the provisions of the proposal that are inconsistent are of minor insignificance.

Eastern sections of the subject land are affected by the Flood Planning Area and the probable maximum flood event as identified on the 2011 LEP Flood Planning Map sheets applying to the land. Council's Interim Flood Policy provides controls for development of residential land, based on the Hastings River Floodplain Risk Management Study 2012 which extends over this site. Land to be rezoned for residential use is either not flood affected or above the Flood Planning Area and will require minimal fill to meet flood planning standards. LEP clause 7.3 Flood planning requires consideration of potential flood impacts both on and off the subject land and regard management of the flood risk. The inconsistency with this direction is considered to be justified as being of minor significance.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. The land is located within a bushfire area. The direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service, and must include provisions relating to bushfire control. Consultation with the RFS is required after the Gateway determination is issued and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved. A Bush Fire Assessment for the land proposed for R3 zoning has been prepared.

The proposal is otherwise consistent with S117 Directions and SEPPs.

Environmental social
economic impacts :

Council has completed biodiversity mapping over the subject land which shows areas of Endangered Ecological Communities (EEC) of paperbark swamp (*Melaleuca quinquenervia*) and small areas of Secondary Koala Habitat on the land. E2 and E3 zones are proposed over this land to maintain and protect these natural values.

Eastern sections of the land are affected by flooding. The majority of flood affected land will be within the E2 and E3 zones and existing Council policy for flood affected land and the provisions of the LEP can appropriately address and minimise flood impacts on that part of the land proposed for residential zoning.

The provision of additional housing within the Port Macquarie urban area provides a positive social and economic impact within the community.

ability of the school to expand as required will assist educational opportunities in the local area.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	14 Days
Timeframe to make LEP :	6 Month	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 : **Public Authority consultation should also occur NSW Trade and Investment- Crown Lands as owner of a road proposed for an E3 Environmental Management zoning.**

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 - Amendment 25.pdf	Proposal	Yes
Amendment 25 Locality Plan.pdf	Map	Yes
Site Identification Map Amendment No 25.pdf	Map	Yes
Delegation Evaluation Criteria Amendment 25.pdf	Proposal	No

Planning Team Recommendation

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

S.117 directions: **3.1 Residential Zones
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**

Additional Information : **It is recommended that;**

- 1. The planning proposal should proceed as a 'minor' planning proposal.**
- 2. Prior to public exhibition, Council is to provide existing and proposed maps, at an appropriate scale and in accordance with the Department's 'Standard Technical Requirements for LEP Maps', which clearly identify the subject site and the intent of the planning proposal. In particular, maps identifying the following attributes and development standards are to be prepared and placed on public exhibition:**
 - a. Proposed Land Zoning (LZN)**
 - b. Proposed Lot Size (LSZ)**
 - c. Proposed Floor Space Ratio (FSR)**
 - d. Proposed Height of Building (HOB)**
 - e. Proposed Land Reservation Aquisition (LRA)**
- 3. The planning proposal is to be completed within 6 months.**

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4. A community consultation period of 14 days is necessary.

5. Consultation with the following agencies be required:

- NSW Rural Fire Service (prior to exhibition as required by S117 Direction 4.4)
- Office of Environment and Heritage
- NSW Trade and Investment Crown Lands

6. The Director General (or an officer of the Department nominated by the Director General) agree that the inconsistencies with s117 Directions 1.2 Rural Zones 1.5 Rural Land, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land are justified;

7. The Director General note that the inconsistency with Direction 4.4 will be resolved through consultation with the NSW Rural Fire Service before or during exhibition;

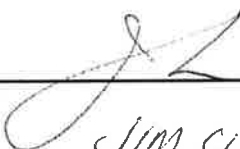
8. An Authorisation to exercise delegation to make the plan be issued to the Council for this planning proposal.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will result in the provision of additional housing in a major regional centre.
2. The inconsistencies of the proposal with the S117 directions are of minor significance.
3. The proposal is consistent with all relevant local and regional planning strategies, and SEPPs.

Signature:



Printed Name:

JIM CLARK Date: 8 March 2013