



Contact: Craig Diss
Phone: (02) 6701 9689
Fax: (02) 6701 9690
Email: Craig.Diss@planning.nsw.gov.au
Postal: PO Box 550, Tamworth NSW 2340

Our ref: PP_2011_PORTM_003_00 (11/06882)
Your ref: PP2011-0003

Mr Andrew Roach
General Manager
Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Dear Mr Roach,

Re: Planning Proposal to undertake a housekeeping amendment of minor corrections and refinements to Port Macquarie-Hastings LEP 2011

I am writing in response to your Council's letter dated 21 April 2011 requesting a Gateway Determination under section 56 of the Environmental Planning and Assessment Act 1979 ("EP&A Act") in respect of the planning proposal to amend the Port Macquarie-Hastings Local Environmental Plan 2011 to undertake a housekeeping amendment of minor corrections and refinements to Port Macquarie-Hastings LEP 2011.

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

In relation to item 8, the Department is currently reviewing the relationship of the SEPP to Standard Instrument LEPs, with a view to potentially introducing amendments to remove duplication between the SEPP and LEPs. Therefore, the amendment is not required and is to be removed from the planning proposal.

The Department does not support the inclusion of an additional subclause to Clause 4.1B Minimum Subdivision Lot Sizes for Certain Split Zones, as proposed by item 14. The proposed amendment to permit land in rural and environmental zones to be subdivided to any lot size is considered to be inconsistent with Clause 4.6(6) Exceptions to Development Standards, and is to be removed from the planning proposal.

In relation to item 21, to amend Schedule 5 Environmental Heritage and the Heritage Map, Council is advised that this item will be facilitated through the Standard Instrument Amendment SEPP currently being prepared by the Department. Therefore, the proposed amendment is not required and is to be removed from the planning proposal.

It is noted that some of the proposed minor corrections and refinements included in the planning proposal, propose to amend the Port Macquarie-Hastings LEP 2011 Land Zoning Map. Council is therefore to prepare draft Land Zoning Maps, that clearly identify the existing and proposed zoning, and is to include the maps in the planning proposal for exhibition purposes.

The Director General's delegate has also agreed that the planning proposal's inconsistencies with S117 Directions 1.2 Rural Zones, 2.1 Environmental Protection Zones and 4.3 Flood Prone Land are of minor significance. No further approval is required in relation to these Directions. However, in regards to the planning proposal's inconsistencies with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation, and take into account any comments made as per the requirements of the Local Planning Direction.

The amending Local Environmental Plan (LEP) is to be finalised within 9 months of the week following the date of the Gateway Determination. Council should aim to commence the exhibition of the Planning Proposal within four (4) weeks from the week following this determination. Council's request for the Department to draft and finalise the LEP should be made six (6) weeks prior to the projected publication date.

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 s54(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 Craig Diss of the Regional Office of the Department on 02 6701 9689.

Yours sincerely,


23/5/11

Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal

Gateway Determination

Planning Proposal (Department Ref: PP_2011_PORTM_003_00): to undertake a housekeeping amendment of minor corrections and refinements to Port Macquarie-Hastings LEP 2011

I, the Deputy Director General, Plan Making & Urban Renewal 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 2011 to undertake a housekeeping amendment of minor corrections and refinements to Port Macquarie-Hastings LEP 2011 should proceed subject to variations required by the following conditions:

1. Council is to remove the following items from the housekeeping planning proposal:
 - Item 8 – to amend Clause 1.9 Application of SEPPs to include a provision at subclause 2 to exclude the provisions of Clauses 8 and 9 of SEPP No. 30 Intensive Agriculture from land to which the Plan applies.
 - Item 14 – to amend Clause 4.1B Minimum Subdivision Lot Sizes for Certain Split Zones to enable land in rural and environmental zones to be subdivided to any lot size.
 - Item 21 – to amend Schedule 5 Environmental Heritage and the Heritage Map to reflect recent definitional changes to Aboriginal Heritage in the Standard Instrument LEP.
2. Council is to consult with the Commissioner of the NSW Rural Fire Service prior to undertaking community consultation, and take into account any comments made as per the requirements of S117 Direction 4.4 Planning for Bushfire Protection.
3. Council is to prepare draft Land Zoning Maps that clearly demonstrate the proposed amendments, and include them in the planning proposal for exhibition purposes.
4. 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 is classified as low impact as described in *A Guide to Preparing LEPs (Department of Planning 2009)* and must be made publicly available for **14 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 4.5 of *A Guide to Preparing LEPs (Department of Planning 2009)*.
5. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
 - NSW Rural Fire Service

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material. Each public authority is to be given at least 21 days to comment on the proposal, or to indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

6. 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).
7. The timeframe for completing the LEP is to be **9 months** from the week following the date of the Gateway determination.

Dated 23rd day of May 2011.



Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning and
Infrastructure