

Planning Proposal under section 55 of the EP&A Act

Minor corrections and refinements to Port Macquarie-Hastings LEP 2011

Ccl ref: PP2011-0003

DPI ref:

Date: 13/04/2011



**PORT MACQUARIE
HASTINGS**

Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Draft within Council	6/04/2011
Lodged with Council	7/04/2011
Reported to Council [sec 55]	13/04/2011
Adopted by Council & referred to Dept of Planning [sec 56 (1)]	
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 & referred to Dept of Planning [sec 58 (2)]	

Council reference: PP2011-0003

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

Department of Planning & *
Infrastructure ref.:

Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on by
Port Macquarie-Hastings Council , or the undersigned Council delegate [delete one]:

Signed _____

Name _____

Position _____

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

Background

Proposal	To make minor corrections and refinements to <i>Port Macquarie-Hastings LEP 2011</i> , arising from oversights or errors that arose during the preparation of the LEP.
Property Details	Some corrections apply generally, and some relate to specific locations – refer to the details in Appendix B.
Applicant Details	Port Macquarie-Hastings Council
Land owner	Various
Brief history	PM-H LEP 2011 was prepared over 5 years, with multiple versions and revisions, both within Council and the Department of Planning. The LEP is a comprehensive LEP based on the Standard Instrument template, and given the scope and complexity of the instrument some errors remained undetected, and were included in the final LEP approved by the Minister in February 2011.
Location	Details of the location of the amendments are given in Appendix B, and more generally are shown on the Site Identification Map sheets. Note that some amendments do not apply to specific land parcels.

Part 1 - Objectives or Intended Outcomes

To make minor corrections and refinements to *Port Macquarie-Hastings LEP 2011*, arising from oversights or errors that arose during the preparation of the LEP, or arising from recent subdivisions. The proposed changes are detailed in Appendix B.

Part 2 - Explanation of Provisions

The changes to the LEP are summarised in Appendix A, though the details of the changes within the map sheets are explained in Appendix B.

Part 3 – Justification

Section A - Need for the planning proposal.

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

This planning proposal does not arise from any strategic study or report, other than to rectify errors and oversights in the preparation of *Port Macquarie-Hastings LEP 2011*.

It is not related to the *Mid North Coast Regional Strategy 2006-31* or Council's *Urban Growth Management Strategy 2010 – 2031*.

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

The matters contained in this planning proposal relate to the text of mapping within the LEP.

Is there a net community benefit?

There is net community benefit in reducing the complications that would otherwise arise if the workarounds were required in the future in relation to the errors and oversights. These complications could relate to processing of development applications, complying development and section 149 Planning Certificates.

Section B - Relationship to strategic planning framework.

Is the planning proposal consistent with the objectives and actions contained within the *Mid North Coast Regional Strategy 2006-31*?

The changes are minor and are consistent with the *Mid North Coast Regional Strategy* and the *Mid North Coast Farmland Mapping Project*.

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

The changes are minor and are consistent with Council's *Community Strategic Plan and Urban Growth Management Strategy 2010 – 2031*.

Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with applicable SEPPs.

It proposes to suspend the operation of clauses 8 and 9 of *SEPP No 30 – Intensive Agriculture*, as the provisions of those clauses are incorporated within the definitions of the LEP.

It proposes to remove a redundant provision now covered by the Codes SEPP.

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

Item No 2 in Appendix B proposes to remove an E2 zone over most of a residential lot that was previously zoned part 2 (a1) *Residential* and part 7 (h) *Environment Protection – Habitat*. Instead it proposes a 6 m wide strip of E2 zone over the native vegetation on the site, with the balance proposed to be E4 Environmental Living. The introduction of the E2 zone over the whole lot was an error, and it is appropriate to rectify this.

In all other respects the planning proposal is consistent with the applicable Ministerial Directions.

Section C - Environmental, social and economic impact.

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 planning proposal will not result in critical habitat or threatened species, populations or ecological communities, or their habitats, being adversely affected.

Section D - State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

The planning proposal will not have any impact on public infrastructure.

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

No public authorities have been consulted.

Part 4 – Community Consultation

Some of the corrections, particularly the typographical corrections, could be dealt with without community consultation. However some of the proposed changes involve changes in development potential for particular development sites and it is reasonable that these be publicly notified for comment.

Therefore, as a whole it is considered that the planning proposal should be subject to public consultation.

Consultation in accordance with the Council's Public Consultation Policy is proposed for this planning proposal. The proposed consultation strategy for this proposal will involve:

- Public exhibition for 14 days.
- Notification of the exhibition in three locally circulating newspapers.
- In relation to Items 1 to 7 and 22, notification of the landowners of the relevant land and landowners of adjoining land.

Contact Details:

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Appendix A – List of proposed amendments

A. Map Cover Sheet

The following map sheets are revoked:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map		
LZN_010B	6380_COM_LZN_010B_020_20110202	1
LZN_013G	6380_COM_LZN_013G_020_20110202	2
LZN_014A	6380_COM_LZN_014A_020_20110202	3
Lot Size Map		
LSZ_010B	6380_COM_LSZ_010B_020_20110125	1
LSZ_011A	6380_COM_LSZ_011A_020_20110125	4
LSZ_013G	6380_COM_LSZ_013G_020_20110202	2 & 5
LSZ_014A	6380_COM_LSZ_014A_020_20110125	3
Additional Permitted Uses Map		
APU_011B	6380_COM_APU_011B_020_20110202	6
Flood Planning Map		
FLD_010B	6380_COM_FLD_010B_020_20110131	1
Floor Space Ratio Map		
FSR_010B	6380_COM_FSR_010B_020_20110125	1
FSR_013	6380_COM_FSR_013_010_20110125	23
FSR_013F	6380_COM_FSR_013F_010_20110125	23
FSR_013FA	6380_COM_FSR_013FA_010_20110125	7
FSR_013G	6380_COM_FSR_013G_010_20110125	23
FSR_014A	6380_COM_FSR_014A_020_20110125	3
Heritage Map		
HER_011B	6380_COM_HER_011B_020_20101216	6
Height of Buildings Map		
HOB_010B	6380_COM_HOB_010B_020_20110125	1

The following map sheets are adopted:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map		
LZN_010B	6380_COM_LZN_010B_020_20110*	1
LZN_013G	6380_COM_LZN_013G_020_20110*	2
LZN_014A	6380_COM_LZN_014A_020_20110*	3
Lot Size Map		
LSZ_010B	6380_COM_LSZ_010B_020_20110*	1
LSZ_011A	6380_COM_LSZ_011A_020_20110*	4
LSZ_013G	6380_COM_LSZ_013G_020_20110*	2 and 5
LSZ_014A	6380_COM_LSZ_014A_020_20110*	3

Map sheets	Map sheet identifier	Appendix B - details reference
Additional Permitted Uses Map		
APU_011B	6380_COM_APU_011B_020_20110*	6
Flood Planning Map		
FLD_010B	6380_COM_FLD_010B_020_20110*	1
Floor Space Ratio Map		
FSR_010B	6380_COM_FSR_010B_020_20110*	1
FSR_013	6380_COM_FSR_013_010_20110*	23
FSR_013F	6380_COM_FSR_013F_010_20110*	23
FSR_013FA	6380_COM_FSR_013FA_010_20110*	7
FSR_013G	6380_COM_FSR_013G_010_20110*	23
FSR_014A	6380_COM_FSR_014A_020_20110*	3
Heritage Map		
HER_011B	6380_COM_HER_011B_020_20110*	6
Height of Buildings Map		
HOB_010B	6380_COM_HOB_010B_020_20110*	1

Note: The asterisk in the Map sheet identifiers will be replaced with dates when the sheets are prepared.

B. Changes to text

Provision	Changes	Appendix B - details reference
CI 1.9 Application of SEPPs	Insert at the end of clause 1.9 the following: Clauses 8 and 9 of <i>State Environmental Planning Policy No 30—Intensive Agriculture</i>	8
Land Use Table Zone R3 Medium Density Residential	Amend: - by prohibiting Dual occupancies, - by permitting with consent Shop top housing. Note: This will involve inserting and omitting, respectively, these terms under "4 Prohibited".	9
Land Use Table Zone R4 High Density Residential	Amend: by prohibiting Dual occupancies and Multi dwelling housing. Note: This will involve inserting both terms under "4 Prohibited".	10
Land Use Table Zone R5 Large Lot Residential	Amend: by permitting with consent Business identification signs. Note: this will involve inserting this term under "3 Permitted with consent".	11
Land Use Table Zone B7 Business Park	Amend: by permitting with consent Freight transport facilities and Transport depots. Note: this will involve omitting these terms from under "4 Prohibited".	12
Land Use Table Zone IN2 Light Industrial	Amend: by prohibiting Business premises. Note: for consistency this will involve inserting under "4 Prohibited" the term <i>Commercial premises</i> ; and omitting the terms <i>Funeral homes</i> ; <i>Office premises</i> ; and <i>Retail premises</i> ;	13
CI 4.1B Minimum subdivision lot sizes for certain split zones	Add the following subclause: (4) Despite subclause (3), development consent may be granted to subdivide an original lot to create other lots (the resulting lots) if:	14

Provision	Changes	Appendix B - details reference
	(a) the area, within each of the resulting lots which is within a residential, business or industrial zone, is not less than the minimum size shown on the Lot Size Map in relation to that land, and (b) the shape of the resulting lots, including land referred to in subclause (2)(b), provides for a practical layout for long-term management of the land in accordance with the relevant zone objectives.	
Cl 4.2A Rural dwelling houses and dual occupancies	Change the start of subclause (3) to be: "On land to which this clause applies, development consent must not be granted for the erection of a dwelling house and on which no dwelling has been erected, or for the erection of a dual occupancy (attached), unless the land is:"	15
Cl 7.7 (5) Airspace operations	Omit wherever occurring the words "Limitation or Operations Surface", and insert instead the words "Limitation or the Operations Surface".	16 See also 19.
Sch 1 Additional permitted uses Cl 1 (1)	Replace "part of Lot 1, DP 564615" with "Lot 1, DP 1161722".	6
Sch 1 Additional permitted uses Cl 2 (1)	Omit "DP 798068" and replace with "DP 798086".	17
Sch 2 Exempt development Tennis courts	Omit the matter relating to Tennis courts.	18
Sch 2 Exempt development Wind generating works ...	Omit subclause (1) and insert instead: (1) Maximum height above ground level (existing)—2.7m, or the maximum height permitted under the Limitation or the Operations Surface (as referred to in clause 7.7), whichever is less.	19 See also 16.
Sch 5 Heritage conservation Part 1 Heritage items	Amend: (a) Item no I162, No 3763 Wingham Road, Comboyne - in the Property description change "DP 7454407" to "DP 754407". (b) Item no I163, No 48 Comboyne Road, Kendall - in the Significance insert "Local". (c) Item no I161, Homedale Road, Kew - change the property description to "Lot 1, DP 1161722". (d) Item no I004, Hay Street, Port Macquarie - in the Property description change "DP 785852" to "DP 758852".	20 20 6 20
Sch 5 Heritage conservation Part 2 Heritage conservation area	Omit the content of the table.	21
Sch 5 Heritage conservation Part 3 Archaeological sites	Omit the last entry, being the second listing of Item A028 at Yarras.	22

Provision	Changes	Appendix B - details reference															
Sch 5 Heritage conservation Part 4 Aboriginal places of heritage significance	Insert a new Part: Part 4 Aboriginal places of heritage significance <table> <tr> <th>Name of Aboriginal place</th><th>Identification on Heritage Map</th><th>Item No</th></tr> <tr> <td>Crosslands Conservation Area</td><td>Shown by a yellow outline and identified as "C04"</td><td>C04</td></tr> <tr> <td>Karikeree 1 Thrumster Conservation Area</td><td>Shown by a yellow outline and identified as "C01"</td><td>C01</td></tr> <tr> <td>Thrumster Knoll Site</td><td>Shown by a yellow outline and identified as "C03"</td><td>C03</td></tr> <tr> <td>Watoo 7 Thrumster Conservation Area</td><td>Shown by a yellow outline and identified as "C02"</td><td>C02</td></tr> </table>	Name of Aboriginal place	Identification on Heritage Map	Item No	Crosslands Conservation Area	Shown by a yellow outline and identified as "C04"	C04	Karikeree 1 Thrumster Conservation Area	Shown by a yellow outline and identified as "C01"	C01	Thrumster Knoll Site	Shown by a yellow outline and identified as "C03"	C03	Watoo 7 Thrumster Conservation Area	Shown by a yellow outline and identified as "C02"	C02	21
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Watoo 7 Thrumster Conservation Area	Shown by a yellow outline and identified as "C02"	C02															

Appendix B – Details of proposed amendments

Item No 1

Issue

Residential subdivision under former zoning has created two lots which have dual map classifications, based on exclusion of flood planning area from LEP 2011 residential zoning.

Location details

Lots 1 -3 and 14 DP 1138154, Ivy Street, Wauchope. Shown on LEP map grid sheet 010B.

Lots 1-3 are residential house blocks (with new dwelling houses on each lot), while lot 14 is a drainage reserve lot, which contains a creek and detention basin, and which is owned by Council.



Assessment

Lots 1, 2 and 14 (and the pathway between lots 1 and 2) have split mapping categories:

- Land Zoning Map – RU1 Primary Production and R1 General Residential,
- Lot Size Map – G (450 m²) and AB2 (40 Ha),
- Floor Space Ratio Map – part G (0.65:1) and part unclassified,
- Height of Buildings Map - part I (8.5 m) and part unclassified.

Lots 1-3 have been filled, except for an embankment adjoining their eastern boundaries.

Given the character of the subdivision and development of the land, nothing is gained by retaining these split provisions over lots 1 and 2. It will be simpler for the owners and for conveyancing if a single attribute applies.

It would be appropriate to adjust the Flood Planning Area boundary to reflect the current ground levels, with the boundary only including the embankment sections of each lot.

For lot 14 it would be appropriate to remove the urban provisions. As a vegetated drainage reserve it is unlikely to be used for public recreation, so a E2 Environmental Conservation zone is recommended.

Recommendations

1. That for lots 1 and 2 (and including the pathway in between) the LEP mapping be changed as follows:
 - Land Zoning Map – R1 General Residential,
 - Lot Size Map – G (450 m²),
 - Floor Space Ratio Map –G (0.65:1),
 - Height of Buildings Map - I (8.5 m).
2. That for lots 1 to 3 (and including the pathway in between), the LEP Flood Planning Area mapping be changed to only include the embankment area on the eastern side of the lots.
3. That for lot 14 the LEP mapping be changed as follows:
 - Land Zoning Map – E2 Environmental Conservation,
 - Lot Size Map – unclassified,
 - Floor Space Ratio Map – unclassified,
 - Height of Buildings Map – unclassified.

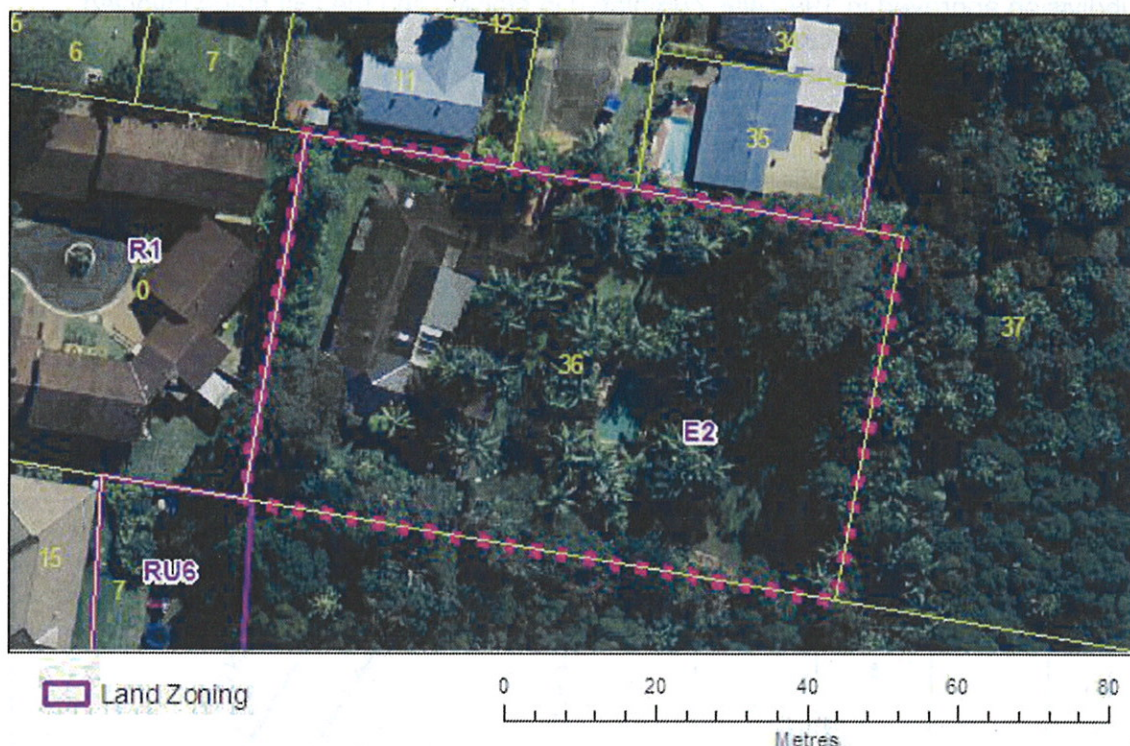
Item No 2

Issue

A large residential lot adjoining a vegetated creekline previously had a split residential and environmental protection zoning. During the preparation of the LEP, a map drafting error zoned the whole lot E2 Environmental Conservation, and part of the lot was left with no minimum lot size.

Location details

Lot 36 DP 246193, No 1A Moonah Parade, Port Macquarie. Shown on LEP map grid sheet



013G. Has an area of 4047 m².

Assessment

The large vegetated lot has particular qualities that have a place in the housing market. Native vegetation is limited to the eastern edge, adjoining the Wrights Creek public reserve vegetation. It is desirable to minimise the potential for weed infestation of the reserve.

An E2 Environmental Conservation zoning could be appropriate for a 6 m strip on the eastern edge (in line with the rear lot boundaries to the north). The western portion of lot 36 should have a zoning that permits dwelling houses, and an E4 Environmental Living is suggested – it permits the dwelling house, but applies a zone objective of “To provide for low-impact residential development in areas with special ecological scientific or aesthetic values.”

The Lot Size Map currently applies a minimum lot size of 450 m² (Code G) over the western portion of the lot, and no classification over the eastern portion. This Map should include a minimum lot size over the whole map. A minimum lot size of 2000 m² is suggested – it could permit the lot to be split into 2, which could still maintain the character of the lot.

The recommendation has been discussed with the land owners.

Recommendation

That the LEP mapping for lot 36 be changed as follows:

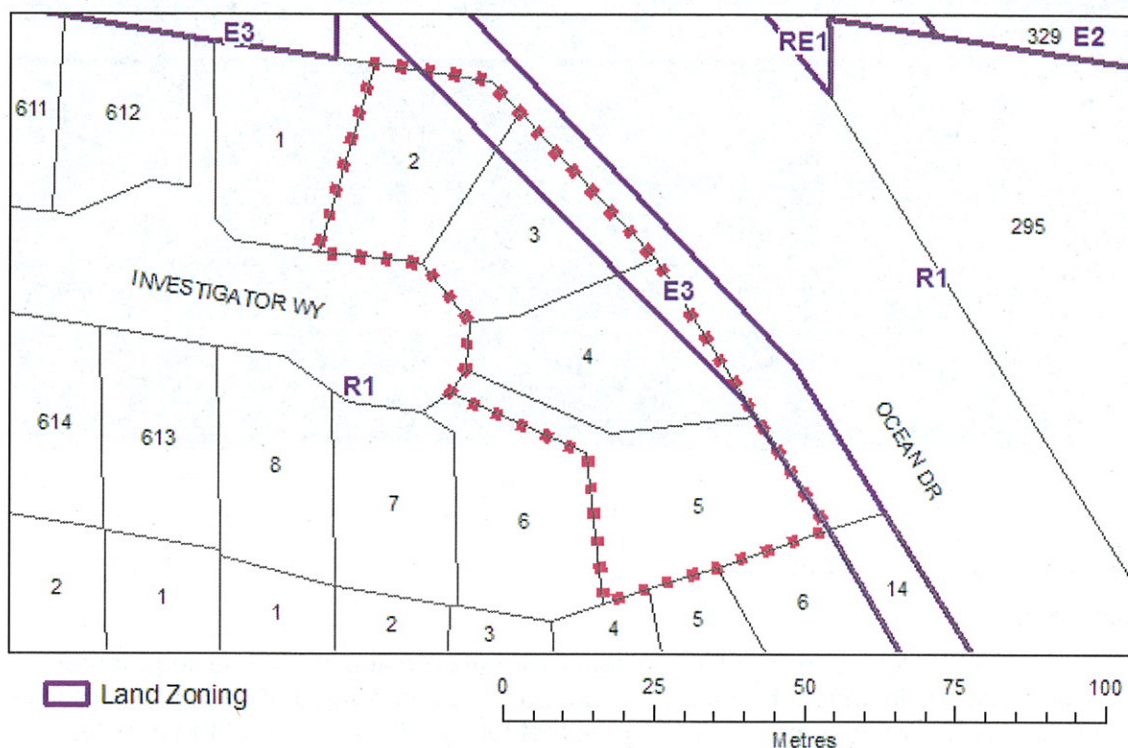
- Land Zoning Map – E2 Environmental Conservation over 6 m strip on the eastern boundary, and E4 Environmental Living over the balance,
- Lot Size Map – V (2000 m²).

Item No 3**Issue**

A subdivision approved in 1990 was completed in stages, and the last stage involved creation of lots adjoining Ocean Drive with a smaller setback than that currently required and shown by the LEP zoning map.

Location details

Lots 2 -5 DP 1158516, Investigator Way, Laurieton. Shown on LEP map grid sheet 014A.

**Assessment**

Lots 2 to 5 have split mapping categories:

- Land Zoning Map – R1 General Residential and E3 Environmental Management,
- Lot Size Map – G (450 m²) and AB2 (40 Ha),
- Floor Space Ratio Map – part G (0.65:1) and part unclassified.

For conveyancing and development control, it would be easier for a consistent classification to apply to the total area of each lots.

Recommendation

That for lots 2 to 5 the LEP mapping be changed as follows:

- Land Zoning Map – R1 General Residential,
- Lot Size Map – G (450 m²),
- Floor Space Ratio Map –G (0.65:1),