

Environment

Meeting Date: 20/04/2011 - Environment

Item 26

**Subject COMMENCEMENT OF PORT MACQUARIE-HASTINGS
LOCAL ENVIRONMENTAL PLAN 2011
Director MATT ROGERS (DIRECTOR DES)**

This report provides information about the finalisation of LEP 2011, which is based on the Standard LEP template. It also explains some of the follow-up actions that have been necessary, including action to address errors in the finalised LEP.

RECOMMENDATION

- 1. That the General Manager be delegated the authority to assess any submissions on the re-exhibited Beechwood village expansion planning proposal, and to adopt the final Planning Proposal for submission to the Department of Planning and Infrastructure.**
- 2. That the Planning Proposal 2011-0003, for minor corrections and refinements to the LEP, be adopted for submission to the Gateway Panel.**

Discussion

Council has previously considered reports on the processing on Council's draft Local Environmental Plan based on the State Government's standard instrument LEP template, in particular last year:

-  (Item 29 - ORD 17/02/10 - Draft LEP approved for public exhibition)



Item29ORD17Feb10.pdf

-  (Item 30 - 25/08/10 - Review of submissions and approved for submission to State Government)



Item30ORD25Aug10.pdf

-  (Item 31 - 15/12/10 - Resolution of some outstanding issues)



Item31ORD15Dec10.pdf

Following approval by the Minister for Planning, *Port Macquarie-Hastings Local Environmental Plan 2011* was published on the Legislation website on 23 February 2011.

The LEP replaces *Hastings LEP 2001*, *Hastings LEP 1987* (as that LEP had continued to operate in relation to 2 areas), and most of *PM-H (Area 13 Thrumster) LEP 2008*, except for the town centre precinct at Thrumster.

The Minister's letter, advising Council of the decision to make the LEP, listed several changes, as outlined in the table below.



MinPlanningPMH_LEP2011_21Feb11.pdf

Change	Comment
deferring the Thrumster Town Centre from the Plan as requested in Council's letter dated 17 December 2010. The Thrumster Town Centre has been deferred to permit the necessary strategic work to be undertaken to identify the appropriate long term planning controls for this area. It expected that this matter should be resolved within 12 months;	Council is expected to incorporate the deferred area within 12 months.
removing the proposed Restricted Premises clause;	In lieu use DCP and DA assessment.
removing the proposed Ecotourism clause;	Can reinstate, using amendments to LEP template.
amending clause 7.5 Koala Habitat and associated maps to include mapped areas of Koala Habitat to which the clause applies;	Satisfactory.
removing Schedule 6 - Dwellings on Certain Rural Lots and amending clause 4.2A Erection of Dwellings and Dual Occupancies in Certain Rural and Environmental Zones and inserting the Dwelling Opportunity Map to address this issue;	Merely a different technical solution, with no impact.
amending 4.2A Erection of Dwellings and Dual Occupancies in certain Rural and Environmental Zones to include Zone E3 Environmental Management and E4 Environmental Living;	Addressing an oversight.
removing Dwelling houses within Low Risk Flood Prone Land and Subject to Bushfire Safety Certificates from Schedule 3 Complying development;	As this was addressed by changes to the Codes SEPP on 25 February 2011.
prohibiting 'restaurants' and 'takeaway food and drink premises' in the RE1 Public Recreation zone;	These had been included for active beaches, including proposed restaurant at Town Beach. (See 3 rows below.)
removing unnecessary and repetitive objectives from the land use tables and provisions, and the inserting a retail hierarchy aim in clause 1.2 Aims of Plan;	Noted.
inserting clause 4.1B - Minimum Lot Sizes for Certain Split Zones;	A clause imposed that doesn't fully fit with land with split zones in this area - eg at Crosslands land zoned RU6 is intended to become extended backyards for adjoining R1 land, and not only with one residential lot. Proposed changes included in the minor corrections planning proposal discussed below.
amending the land zoning maps to identify areas of RE2 Private Recreation on areas originally proposed as RE1 Public Recreation to better reflect the nature and land use of the lands.	Provides for 'restaurants' and 'takeaway food and drink premises' on designated RE2 areas at active beaches. (See 3 rows above.)
Concern over protection of archaeology of early convict settlement within Port Macquarie town centre.	LEP template did not allow Council to transfer LEP 2001 provisions. Application of template provisions for archaeology was focused on sites identified as undisturbed, minor

disturbance or partly disturbed in the report <i>Archaeological Management Plan, Port Macquarie - Volume 2 Inventory</i>, by Edward Higginbotham 7 Associates, August 1994. This information was in the draft LEP, until removed by the Dept of Planning.
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Subsequent work

In the final stages of the review of the LEP, by officers of the Department of Planning and of the Parliamentary Counsel's Office, there was limited opportunity for Council officers to check for any errors, and some have come to light.

On 26 November 2010 LEP 2001 was amended to extend the Village zone at Beechwood. While it had been expected that this would be incorporated into the final version of LEP 2011, it did not occur. As soon as this was realised, action was initiated to rectify the problem. A Planning Proposal (the new term for a proposed LEP amendment) was prepared by Council staff, and approved under delegation by the Acting General Manager. The "Gateway" Panel of the Department of Planning has reviewed the Planning Proposal, and, notwithstanding the previous exhibition process for the amendment to LEP 2001, directed that it be placed on public exhibition. The exhibition concludes the day after this meeting. It is proposed that the General Manager will exercise delegation to assess any submissions and adopt the Planning Proposal for final submission to the Dept of Planning and Infrastructure. Delegation will not be used if it is considered a significant complication has been identified.

Council's provisions for signage that would be exempt development under the LEP were somehow truncated during the final stages of Government review of the LEP. The provisions in the LEP as approved do not properly represent Council's intentions as included in the exhibited draft LEP and in the draft LEP as submitted to the Department of Planning. While the Department has just released a discussion paper on standard provisions for exempt signage to be introduced into the Codes SEPP, there is an interim period where it would be desirable for the LEP provisions to be corrected. A further Planning Proposal has been prepared and been approved by the Acting General Manager. At the time of writing this report, the planning proposal is with the Department of Planning for consideration by the Gateway Panel. Given that it is merely intended to introduce the exhibited provisions from the draft LEP it is hoped that streamlined processing will be used.

Two days after the LEP was published, the Government published 55 pages of amendments to the LEP template, including 35 pages of changes to the definitions, and 16 pages of changes to the Land Use Table. The Order making these changes includes a transitional provision that the changes do not apply to existing LEPs based on the template for 4 months (ie until 25 June 2011). Broadly the changes make significant improvements, particularly to the clarity of the hierarchy of land use terms in the Land Use Table.

However, these changes also require some adjustments to local content in the LEP, and the Department of Planning and Infrastructure has liaised with Council officers over these changes. The Department proposes that an amending SEPP will come into force on 25 June to make those changes to local content in all the current template-based LEPs, including PM-H LEP 2011. These changes will have negligible effect - there is more effect from the revisions in the definitions and hierarchy in the mandatory template content.

Planning proposal - minor corrections and refinements

Some other minor errors and refinements have been identified, including some mapping errors that disadvantage some landowners. It is intended to rectify these errors as quickly as feasible.

Therefore a further planning proposal has been drafted, and in line with usual practice, is submitted for Council adoption.



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The proposal lists 22 separate matters to be addressed. Some to note are:

- Seeking to fix the problems with cl 4.1B - Minimum Lot Sizes for Certain Split Zones, as mentioned above.
- Rectifying a problem with dual occupancies on rural land.

It is expected that this planning proposal will require public exhibition.

Future work

It is noted that there are further amendments to the LEP to be addressed in the future. Some that are known about include:

- Introducing eco-tourist facilities as a permissible use in some rural zones. (This is now possible following the changes to the template.)
- In relation to the adopted alignment of the Pacific Highway upgrade from the Oxley Highway to South Kempsey, applying a SP2 Infrastructure (Classified road) zone, and including it on the Land Reservation Acquisition Map.
- Review of development controls over the R3 and R4 zone areas (ie medium and high density residential areas), as LEP 2011 did not include assessment of what needed to be changed.
- Revisions to development controls for Department of Housing land in Aston Street, Port Macquarie.
- Review and update of mapping relating to clause 7.5 Koala habitat.
- Some site-specific rezonings that have been informally raised with Council officers.

It will be necessary to apply some discipline in the processing of these amendments, to avoid simultaneous processing of ad hoc amendments, and having regard for Council's planning resource capability.

Alignment With Strategic Direction

Finalisation of the LEP, and the subsequent work, are consistent with Council's strategic direction.

Consultation

Consultation has occurred during the public exhibition phase of the draft LEP. Some of the current refinements do not require exhibition or (in relation to implementing the template changes) will not be possible. Consultation is occurring (or will) for other matters.

Planning and Policy Impact

The finalisation of the LEP means that this area now has in place a LEP based on the State-wide template, with the benefit of many standard provisions and definitions. (It is noted that the Land Use Table, while based on standard requirements, has local customisation, as occurs at every Council.)

Financial & Economic Implications

There are a range of costs for Council:

- updating information systems, particularly with 14 new Map Series (totalling 188 A3 map sheets),
- updating production of section 149 Planning Certificates,
- adjustment to the new LEP provisions, particularly for relevant professional staff, and customer service staff,
- staff resources to immediately address changes to the "standard" template, and
- compliance with Departmental requirements relating to changes to map sheets in the future.

If there are no more significant changes to the template there is potential savings and efficiencies for Council in the future.

While there are potential savings to State-wide consultancies with a standard instrument, in the short term, local consultancies will be affected by costs similar to Council

Options

Not applicable

TABLED DOCUMENT AT MEETING:



PP2011-0003 Apr13.pdf

COUNCIL RESOLUTION: ADOPTED:

1. That the General Manager be delegated the authority to assess any submissions on the re-exhibited Beechwood village expansion planning proposal, and to adopt the final Planning Proposal for submission to the Department of Planning and Infrastructure.
2. That the Planning Proposal 2011-0003 dated 13 April 2011, for minor corrections and refinements to the LEP, be adopted for submission to the Gateway Panel.