

Planning Proposal under s55 of the EP&A Act

**Port Macquarie-Hastings Local
Environmental Plan (LEP) 2011
(Amendment No.2)**



**PORT MACQUARIE
HASTINGS**

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Planning Proposal

Background

Proposal	To reinstate <i>Exempt signage</i> provisions omitted in error from <i>Port Macquarie-Hastings Local Environmental Plan 2011 Schedule 2 Exempt Development</i> , notified on 23 February 2011.
Property Details	The proposal is not site specific .
Applicant Details	Port Macquarie-Hastings Council
Land owner	NA.

The proposal is to reinstate detailed local signage provisions in *Port Macquarie-Hastings LEP 2011 Schedule 2 Exempt Development* which, due to a drafting error, were omitted from the final written instrument published on the NSW Legislation website on 23 February 2011.

In October 2010, Council submitted the relevant information relating to the draft Port Macquarie-Hastings Comprehensive Local Environmental Plan under Section 68 of the *Environmental Planning and Assessment Act 1979 (the Act)*, to the Department requesting that the Director-General furnish a report to the Minister recommending the making of the plan.

At the time of submitting the final draft plan, the draft written text included inter alia, detailed local provisions for *exempt* signage, which have been omitted in error from Schedule 2 of the notified plan.

The effect of the drafting error is considered significantly adverse as it has allowed signage to now be carried out without the need for development consent under the Act. As a result, sections of the local government area could potentially be exposed to prolific or inappropriate signage which has been erected without appropriate consideration being given to its location, scale, content or visual impact.

Signage is defined as meaning:

...any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and*
- (b) business identification signs, and*
- (c) advertisements,*

but does not include traffic signs or traffic control facilities.

Council, in consultation with the Regional Office of the Department of Planning, has determined to prepare a priority planning proposal under clause 55 of the Act and urgently seek on this occasion, a Gateway determination that community consultation in accordance with s56 of the Act is not warranted.

The draft planning proposal has been endorsed by Port Macquarie-Hastings Acting General Manager under the delegation of the Council.

This submission explains the intended effect of the proposed instrument and sets out the justification for making the proposed instrument.

Part 1 - Objectives or Intended Outcomes

- To reinstate exhibited local provisions relating to *exempt signage* in Council's principle planning instrument; *Port Macquarie-Hastings Local Environmental Plan 2011*.
- To ensure appropriate controls over the content, location, size and scale of exempt signage, advertising structures and displays.

Part 2 - Explanation of Provisions

Schedule 2 Exempt Development Section "*Signage, advertising structures and displays (1) to (5)*"

Omit current paragraphs (1), (2), (3) (4) and (5). Insert instead:

Signage, advertising structures and displays

(1) *General*

- (a) *Content relates to the premises on which it is situated.*
- (b) *Must not cover mechanical ventilation inlet or outlet vents.*
- (c) *Must relate to a lawful use of, and carried out on, the land.*
- (d) *If it has red, amber, green or blue lighting, must not be erected within 50m of traffic control signals.*
- (e) *Must not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent*

(2) *Business identification signs in a residential or an environment protection zone*

- (a) *Maximum size—1m² in a residential area and 1.5m² in an environment protection zone.*
- (b) *Must not be illuminated.*
- (c) *Only 1 sign per premises.*
- (d) *Must be located wholly within property boundaries of the land to which the sign relates, or be flush mounted to the front fence or front wall of a building so long as the sign does not protrude beyond the physical limits of that fence or building.*
- (e) *Must not be on land containing a heritage item.*

(3) *Business identification signs in a business zone*

- (a) *Only 1 sign per premises from the following paragraphs.*
- (b) *Suspended under awning sign:*
 - (i) *maximum length—2.5m, and*
 - (ii) *maximum size—1.5m², and*
 - (iii) *must be securely fixed by rigid non-corroding metal supports, and*
 - (iv) *if over a public road, at least 2.6m above the ground or pavement level and at least 0.6m from the vertical projection of the kerb or roadway line.*
- (c) *Vertical or horizontal projecting wall sign:*

- (i) *maximum size—2.5m², and*
 - (ii) *must be securely fixed by rigid non-corroding metal supports, and*
 - (iii) *if over a public road, must be suspended at a height not less than 2.6m above the ground or pavement level and at least 0.6m from the vertical projection of the kerb or roadway line.*
 - (d) *Flush wall sign:*
 - (i) *maximum size—2.5m², and*
 - (ii) *must be securely fixed by rigid non-corroding metal supports, and*
 - (iii) *must not project above the top of the wall to which it is attached.*
 - (e) *Top hamper sign:*
 - (i) *maximum size—2.5m², and*
 - (ii) *must be securely fixed by rigid non-corroding metal supports, and*
 - (iii) *must not extend below the level of the head of the doorway or window above which it is attached, and*
 - (iv) *must not be more than 3.7m above the ground level (existing).*
 - (f) *Signs on building walls:*
 - (i) *maximum height—3m above ground level (existing) on front and side walls, and*
 - (ii) *maximum display area—50% of the area of the wall.*
- (4) **Business identification signs in an industrial zone**
- (a) *Maximum size—1m² per metre of frontage, up to 10m.*
 - (b) *Must be securely fixed by rigid non-corroding metal supports.*

Note: Council acknowledges that street signs and traffic signs are covered by the State Environmental Planning Policy (Infrastructure) 2007

(5) **Real estate signs**

- (a) *Must be advertising that the premises on which they are displayed are for sale or for lease.*
- (b) *Maximum size in a residential zone:*
 - (i) *for subdivision land sales of over 50 lots—20m²,*
 - (ii) *for multi dwelling development or residential flat buildings of over 10 dwellings and for other subdivision land sales—10m²,*
 - (iii) *in other cases—3m².*
- (c) *Maximum size in a business or industrial zone—4m².*
- (d) *Maximum—2 signs per premises.*
- (e) *Must be located wholly within the property boundaries of the land to which the sign relates, or if on the footpath, be flush against the property boundary.*
- (f) *Must not be displayed for more than 7 days after the commencement of the letting or settlement for the sale of the property is completed.*
- (g) *Must not be erected on public land.*
- (h) *Must not refer to a future use unless any required development consent has been granted.*

(6) **Building identification signs**

- (a) *Maximum size—1m² in a residential zone and 1.5m² in all other zones.*
- (b) *Maximum height—1.8m in a residential or an environment protection zone.*
- (c) *Must not be illuminated in a residential or an environment protection zone.*

- (d) *Must be located wholly within the property boundaries of the land to which the sign relates, or flush mounted to the front fence or front wall of a building so long as the sign does not protrude beyond the physical limits of that fence or building.*
- (e) *Only 1 sign per premises.*
- (7) **Temporary signs**
 - (a) *Must only announce a local event of a religious, educational, cultural, political, social or recreational character or relate to a temporary matter in connection with the event.*
 - (b) *Must not include advertising of a commercial nature (except for the name of the event's sponsor).*
 - (c) *Must not be displayed earlier than 28 days before the day on which the event is to take place or commence and must be removed within 14 days after the completion of the event.*
 - (d) *Must not be a fly poster taped to poles, hoardings or buildings.*
- (8) **School signs**
 - (a) *Maximum size—0.75m²,*
 - (b) *Minimum distance apart—3.5m,*
 - (c) *Maximum height to top of sign—1.5m above ground level (existing),*
 - (d) *Must relate to the school,*
 - (e) *Maximum—6 signs per street frontage.*

No map changes are required.

Part 3 – Justification

Section A - Need for the planning proposal.

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

Council's policy in relation to the types of signage suitable to be undertaken as *Exempt development* have been sanctioned in successive development control plans.

Former development standards relating to the different types of signage, were revised and incorporated into the standard instrument Local Environmental Plan. Schedule 2, as submitted, identified the types of signage Council considered to be of minimal environmental impact and therefore suitable for inclusion as Exempt Development.

Council considers it appropriate to reinstate the provisions requests .

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

When the Draft *Port Macquarie-Hastings Local Environmental Plan* written text was submitted to the Department in October 2010 under Section 68 of the Act, it included certain types of signage as *Exempt development*, together with appropriate development standards for a range of signage types and sizes, generally falling within the category of 'business identification signs and advertising signs. Due to a drafting error these development standards have been omitted. As a result, all signage may now be undertaken without prior approval from Council.

No other options are considered appropriate.

Is there a net community benefit?

There is wide community expectation that regulatory bodies will provide the necessary statutory planning framework for management and regulation of signage, advertising structures and displays. In this regard, there is obvious community benefit in ensuring appropriate controls are in place to minimise adverse public impacts and protect local visual amenity.

Council, in consultation with the Regional Office of the Department of Planning suggests that the matter is addressed as a priority to prevent exploitation of the current situation.

Section B - Relationship to strategic planning framework.

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The proposal is not inconsistent with the environmental, settlement and economic aims of the Mid North Coast Regional Strategy.

Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Good governance is the guiding principle of the *Port Macquarie-Hastings Council Community Strategic Plan 2010*. The plan promotes creation of community pride and sense of place through quality urban design principles and standards. An orderly approach to regulating signage will assist in developing a sense of community pride and a high quality environment consistent with the focus and vision of the Strategy.

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

SEPP 64 – Advertising and signage

The SEPP does not apply to signage that is 'Exempt' Signage" under an EPI. Correcting the omission from Schedule 2 will mean that signage that will require consent will become subject to SEPP 64.

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

The planning proposals is consistent with all 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 proposed amendment is unlikely to affect Critical Habitat, threatened species, EECs, Ecological Communities or their habitats.

Section D - State and Commonwealth interests.

Is there adequate public infrastructure for the planning proposal?

NA

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

No consultation with State Departments has been undertaken nor is any considered necessary due to the special circumstances relating to this proposal.

Part 4 – Community Consultation

Consultation in accordance with the Council's Public Consultation Policy was completed in association with preparation of Port Macquarie-Hastings Local Environmental Plan 2011.

The Draft Port Macquarie-Hastings Standard Instrument LEP was publically exhibited from 8 March 2010 until the 10 May 2010. No changes to the provisions for exempt signage were implemented in response to submissions however a minor amendment occurred at the time of Council's formal submission to the Department under Section 68 of the EP&A Act due to changes to the *Clause 7.4 Koala Habitat*.

To illustrate the extent of modification made to the provisions for exempt signage post section 68, a comparison table has been prepared to show the written provisions at three key stages; at the time of public exhibition in March-April 2010, as submitted to the Department in Council's formal submission under section 68 of the Act in October 2010 and thirdly, at the time of Notification of the LEP on the NSW legislation website in February 2011.

The table is included as Appendix 1

The current expectations of the community are that the planning controls applying to signage are consistent with the exhibited Draft Port Macquarie-Hastings Local Environmental Plan 2010 publically exhibited from 8 March 2010 to 10 April 2010. No further consultation is considered necessary in the circumstance.

Yours Sincerely



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