

Planning Proposal under section 55 of the EP&A Act

Fernbank Creek Road Employment Lands

**Draft Port Macquarie-Hastings LEP 2011
(Amendment No *)**

Ccl ref: **PP2010-0001**

DP&I ref: *

Date: 3/11/2011



**PORT MACQUARIE
HASTINGS**

Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Draft [under discussion with within] Council	19/3/2010 8/2/2011
Lodged with Council	8/8/2011
Reported to Council [sec 55]	26/10/2011
Referred to Dept of Planning [sec 56 (1)]	10/11/2011
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: PP2010-001

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

Department of Planning & *
Infrastructure reference:

Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on 26 October 2011 by Port Macquarie-Hastings Council.

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

Exhibition information *{To be completed prior to Exhibition}*

Content

Proposed amendments to Local Environmental Plans are exhibited in a descriptive form within a "Planning Proposal".

Details of the amendments contained in this **Planning Proposal {PP2011-000#}** are contained in {xxx}, found on pages {# to #}. They cover:

- {xxx}.

The specifics of how the LEP would be amended are described in Appendix A, found on pages {# to #}. The Planning Proposal contains statements of the intent for changes to the LEP text, but not the specific wording.

The affected land is shown on the Site Identification Map sheet contained in Appendix {X}, following page {#}.

The proposed replacement LEP Map sheets follow in Appendix {X}.

The "Gateway Determination" from the NSW Department of Planning and Infrastructure, relating to this Planning Proposal, is on the yellow paper at the back of this document.

Exhibition

The exhibition period is from {date} to {date}, with the Planning Proposal available for inspection by any person at Council's offices at Port Macquarie, Laurieton and Wauchope.

Submissions

Any person may make a written submission to Council up until the end of the exhibition period.

The submission should quote Council's reference {PP2011-000#}, and be emailed to council@pmhc.nsw.gov.au or posted to The General Manager,
Port Macquarie-Hastings Council,
PO Box 84,
PORT MACQUARIE NSW 2444.

Note that any submission may be made public.

Section 147 (5) of the *Environmental Planning and Assessment Act 1979* states in part:

"A person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of that council,
- (b) all gifts made to any local councillor or employee of that council."

If further information is required on this, ask Council's Customer Service staff.

Further information

Please contact {name} on phone 6581 {ext #}.

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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	Proposed rezoning of rural land for employment and environmental purposes.
Property Details	Lot 101 DP 1106752, Lot 376 DP 754434 and Lot 6 DP 809161, Fernbank Creek Road, Port Macquarie.
Proponent Details	Hopkins Consultants
Land owner	Fernbank Investments (NSW) Pty Ltd

Part 1 - Objectives or Intended Outcomes

The objective of this proposal is to facilitate stage 2 of the Sancroix Employment Lands (Fernbank Creek Road Precinct) via a change of zoning and minimum lot size to permit employment related land uses on part of Lot 101 DP 1106752, with the remainder of the site, excluding a small area fronting Fernbank Creek Road, to be retained for environmental protection purposes. In addition, the proposal aims to provide certainty in relation to the retention and rehabilitation of native vegetation on adjoining land immediately to the east comprising Lot 376 DP 754434 and Lot 6 DP 809161 (Refer to **Attachment 1** – Locality Map and Site Plan).

Part 2 - Explanation of Provisions

It is proposed to amend Hastings Local Environmental Plan 2001 to rezone generally the cleared areas of Lot 101 DP 1106752 from RU1 Primary Production to facilitate employment (general and/or light industrial) land uses, with the balance of the site to be rezoned for environmental purposes.

The proposed rezoning of Lot 101 excludes an area of approximately 2.49 hectares of cleared and parkland cleared land fronting Fernbank Creek Road which is intended to be retained in the existing RU1 zoning for the purpose of a rural dwelling. The proposal also seeks to retain and rehabilitate native vegetation on adjoining properties to the east of Lot 101 (Lot 376 DP 754434 & Lot 6 DP 809161).

A plan illustrating the proposed rezoning footprint; concept vehicular access arrangements; extent of vegetation clearing; vegetation offset area; and land to be set aside for stormwater management with vegetation enhancement is shown as **Attachment 2**.

Part 3 – Justification

Section A - Need for the planning proposal.

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

The existing cleared areas on Lot 101 DP 1106752 are identified on the Port Macquarie-Hastings growth area map to the Department of Planning and Infrastructure's *Mid North Coast Regional Strategy 2006-31* (MNCRS), as 'Proposed Employment Lands' (refer to **Attachment 3**).

Council's *Port Macquarie-Hastings Urban Growth Management Strategy 2010 – 2031* (PMH UGMS) identifies Lot 101 DP 1106752 as suitable for investigation as a major new dedicated site for export and larger businesses such as transport, logistics, general and food industry businesses, subject to suitable highway access arrangements.

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

The planning proposal is the only legal method of amending Port Macquarie-Hastings Local Environmental Plan 2011 to permit applications to be submitted, considered and determined for a range of employment uses on Lot 101. In addition, the proposal is considered to be the most appropriate means of ensuring adequate retention and rehabilitation of native vegetation on the balance of the site (excluding that area nominated for a rural dwelling), in conjunction with adjoining lands to the east (Lot 376 DP 754434 & Lot 6 DP 809161).

Site specific development control provisions will need to be prepared which would include specific site objectives and development controls for future development. These provisions

are expected to comprise a range of design and built form controls including (but not limited to):

- Access and internal road layout
- Building setbacks based on the environmental features of the site
- Site landscaping
- Public domain treatments
- Bushfire asset protection zones
- Urban sensitive water design
- Treatment of employment / environmental protection interface; and
- Measures to maintain a satisfactory level of amenity for residential land to the south.

The range of provisions will need to be informed by the specialist studies that have been completed to support the proposal. These studies include:-

- Agricultural lands assessment (**Attachment 4**)
- Contaminated lands assessment (**Attachment 5**)
- Aboriginal heritage assessment (**Attachment 6**)
- Flora and fauna impact assessment (**Attachment 7**)
- Bushfire risk assessment (**Attachment 8**)
- Traffic Statement (**Attachment 9**); and
- Water sensitive urban design strategy (**Attachment 10**).

In some instances these studies are based on an earlier development concept and may need to be modified prior to public exhibition of the proposal to reflect the current proposed footprint.

The aim will be to prepare and exhibit the draft development control provisions in conjunction with the planning proposal.

Is there a net community benefit?

A net community benefit is identified in connection with the proposed amendment. A summary of the net community benefit is described below:

- Activation of the Pacific Highway overpass at the intersection of the Pacific Highway/Sancrox and Fernbank Creek Roads, benefiting all road users and facilitating the employment and economic benefits of the adjacent Sancrox and proposed Fernbank Creek Road Employment Precincts.
- Increased local employment opportunities and economic impetus for the regional economy.
- Opportunity to retain and rehabilitate native vegetation on Lot 101 and adjoining lands to the east, part of which is located within an identified Office of Environment and Heritage wildlife corridor.

Consequently, it is considered that the resultant community benefit outweighs the cost of implementing the proposal.

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?

As previously noted, the planning proposal is consistent with the strategic planning direction outlined in the PMH UGMS and the MNCRS.

The proposed rezoning footprint represents a minor adjustment to the MNCRS growth area map boundary to accommodate the road geometry requirements of industrial standard perimeter roads to cater for future industrial traffic in addition to bushfire protection. From a planning perspective, the proposed minor adjustment to the MNCRS growth area boundary is considered desirable to ensure satisfactory access and internal manoeuvring of industrial traffic within the site.

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

The planning proposal is consistent with the strategic planning direction outlined in Council's Community Strategic Plan and the PMH UGMS, as noted above.

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

Refer to **Attachment 11**.

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

Refer to **Attachment 12**.

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 majority of the land to be investigated for employment is cleared grassland. Some clearing of dry sclerophyll forest (approx 8.30 ha) is required to achieve a workable layout and meet perimeter road requirements.

The westernmost section of vegetation to be removed for the employment lands footprint is Blackbutt-Pink Bloodwood shrubby open forest which adjoins the RTA's proposed overpass and service road (refer to discussion under Section D below). The area of vegetation from the west through the centre of the proposed employment lands is also Blackbutt-Pink Bloodwood and includes a narrow section of disturbed vegetation across the ridge in the centre of the site.

A plan showing the survey accurate location of hollow-bearing trees within and adjacent to the proposed employment lands footprint is at **Attachment 13**.

It should be noted that the RTA overpass area (approx 3.3 ha) is not part of the subject proposal in terms of vegetation removal/offsets because this land forms part of the RTA's Pacific Highway upgrade and will be addressed under corresponding RTA approvals.

In preparing the draft proposal, preliminary consultation has occurred with the Office of Environment and Heritage regarding ecological issues and vegetation offset requirements. As a result of these consultations, the proponent has offered a vegetation offset ratio of 6.3:1, which includes a combination of off-site vegetation immediately to the east of Lot 101 within Lots 376 and Lot 6 (including revegetation of cleared lands), together with vegetation within Lot 101.

It is proposed to protect these areas of retained vegetation under private ownership, subject to application of an environmental zoning. The proponent proposes to work through the detail of security and long-term management in a Voluntary Planning Agreement (VPA) including restrictions on titles through section 88B instruments.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The investigation site is not flood prone and there are no known slip or subsidence issues in the locality. The land is mapped as bushfire prone and safe access and egress is achievable from the proposed highway overpass. A small area of acid sulfate soils exists in the south-eastern sector of Lot 101 however this area of the site is located outside the proposed employment lands footprint. Stormwater management measures to be applied to future development are provided in the proponent's Water Sensitive Urban Design Strategy.

How has the planning proposal adequately addressed any social and economic effects?

The net community benefit, as noted previously, includes both potentially positive social and economic benefits through employment generation; improved highway access; and retention/rehabilitation of environmental lands.

An acoustic and air assessment be need to be undertaken to address the potential for future industrial uses to cause nuisance to future residential lands immediately adjoining Lot 101 to the south in Sovereign Hills.

Section D - State and Commonwealth interests

Is there adequate public infrastructure for the planning proposal?

Access to the proposed employment lands is intended via the proposed Pacific Highway overpass, in accordance with the Roads and Traffic Authority's (RTAs) planned Pacific Highway upgrade. The bring forward of construction of this infrastructure is proposed in conjunction with development of the Sancrox and Fernbank Creek Road Employment Precincts and Council is currently coordinating negotiations with the RTA, Department of Industry and Investment and key landowners, in relation to early construction of the overpass.

The proponent has offered to enter into a Voluntary Planning Agreement (VPA) to dedicate land along the western boundary of Lot 101 for the approach roads required for the proposed RTA Pacific Highway overpass. The proponent has also offered to enter into negotiations regarding a VPA to address the implementation of road infrastructure to service the proposed development.

The construction of the highway overpass is fundamental to the rezoning of the land for employment purposes and the Planning Proposal has been prepared on his basis. If the construction of the overpass is not brought forward as proposed, it will be necessary that Council defer the zoning of the subject land, or establish an alternate mechanism to prevent development of the precinct until satisfactory arrangements are in place or vehicular access to the site.

Sewer is able to be gravity fed from approximately half of the site to the north-eastern corner the Sovereign Hills Sewerage Transfer Scheme, connecting to Council's Sewerage Treatment System to the north. The remainder of the site would need to connect to the future Fernbank Creek Road rising main and a contribution made to the Development Servicing Plan accordingly. The proponent has offered to negotiate in relation to cost sharing

(on a proportionate developable area serviced basis) for the sewerage infrastructure under a VPA.

Water supply options currently being considered by Council include a new trunk main to follow the Pacific Highway alignment with connections east and west; and as an alternative, a new main through Sovereign Hills to Thrumster Street with connection to the west via the future highway overpass. The proponent has offered to enter into a VPA with Council to contribute on a proportionate developable hectare basis to the cost of providing water supply to service the site.

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

As previously noted, preliminary consultation has occurred pre-Gateway determination with OEH in relation to vegetation offset requirements. Should the proposal be supported, the Department of Planning and Infrastructure's Gateway determination will outline further consultation requirements with OEH and other relevant government agencies including for example, the RTA, NSW Department of Primary Industries, NSW Rural Fire Service, NSW Water, Essential Energy and Telstra.

Part 4 – Community Consultation

The proposal is considered to warrant a public exhibition period of twenty-eight (28) days.

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

- Exhibition in a locally circulating newspaper.
- Notification of landowners adjoining and adjacent to the site.

List of Attachments

Attachment 1 – Locality Map and Site Plan

Attachment 2 – Concept Plan

Attachment 3 – MNCRS 'Proposed Employment Lands' Growth Area Map extract

Attachment 4 - Agricultural lands assessment

Attachment 5 - Contaminated lands assessment

Attachment 6 - Aboriginal heritage assessment

Attachment 7 - Flora and fauna impact assessment

Attachment 8 - Bushfire risk assessment

Attachment 9 - Traffic Statement

Attachment 10 - Water sensitive urban design strategy

Attachment 11 – Assessment of the proposal against SEPPs

Attachment 12 – Assessment of the proposal against s117s

Attachment 13 – Survey accurate location of HBTs

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