

Port Macquarie Hastings LEP 2011 Amendment No 39 - South Lindfield Urban Release Area

Proposal Title : **Port Macquarie Hastings LEP 2011 Amendment No 39 - South Lindfield Urban Release Area**

Proposal Summary : **Port Macquarie Hastings LEP 2011 Amendment No 39 - South Lindfield Urban Release Area.**

The purpose of the Planning Proposal is to rezone land at South Lindfield, south west of Port Macquarie, to enable the land to be developed for residential and industrial purposes. The land is identified as Future Urban Release Area in the Mid North Coast Regional Strategy (MNCRS) 2006-31 and as Urban Investigation Area in Council's Urban Growth Management Strategy (UGMS) 2010-2031. The proposal will rezone the land from RU1 Primary Production to a mixture of R1 General residential, IN2 Light Industrial, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living.

This will also necessitate changes to the following map sheets;
Land Zoning (LZN),
Lot Size Map (LSZ),
Dwelling Opportunity (DWE),
Floor Space Ratio (FSR),
Height of Buildings (HOB),
Koala Habitat (KHE).

PP Number : **PP_2016_PORTM_002_00** Dop File No : **16/04252**

Proposal Details

Date Planning Proposal Received :	10-Mar-2016	LGA covered :	Port Macquarie-Hastings
Region :	Northern	RPA :	Port Macquarie-Hastings Council
State Electorate :	OXLEY	Section of the Act :	55 - Planning Proposal
LEP Type :	Spot Rezoning		

Location Details

Street :
Suburb : City : Postcode :
Land Parcel : **Various land parcels within Port Macquarie-Hastings LGA as indicated on the maps included in the Planning Proposal**

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

Contact Name : **Gina Davis**
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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha)	15.70	Type of Release (eg Residential / Employment land) :	Both
No. of Lots :	0	No. of Dwellings (where relevant) :	140
Gross Floor Area :	0	No of Jobs Created :	170

The NSW Government Lobbyists Code of
 Conduct has been
 complied with : **Yes**

If No, comment : **The Department of Planning and Environment's Code of Practice in relation to
 communications and meetings with lobbyists has been complied with to the best of the
 Region's knowledge.**

Have there been
 meetings or
 communications with
 registered lobbyists? : **No**

If Yes, comment : **The Northern Region office has not met any lobbyists in relation to this proposal, nor has the
 Region been advised of any meeting between other officers within the agency and lobbyists
 concerning this proposal.**

Supporting notes

Internal Supporting
 Notes : **The Planning Proposal aims to rezone:
 * 1.7ha of land from RU1 Primary Production to IN2 Light Industrial equating to
 approximately 170 jobs (based on industrial - 1 job per 100sqm), and
 * 14ha of land from RU1 Primary Production to R1 General Residential equating to
 approximately 140 houses (based on regional towns - 10 dwellings per ha).**

External Supporting
 Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? **Yes**

Comment : **The statement of objectives adequately describes the proposed outcomes of the planning proposal.**

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The amendments proposed to Port Macquarie Hastings are adequately described.**

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **Yes**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

1.1 Business and Industrial Zones

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

3.3 Home Occupations

3.4 Integrating Land Use and Transport

3.5 Development Near Licensed Aerodromes

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

5.1 Implementation of Regional Strategies

6.1 Approval and Referral Requirements

6.2 Reserving Land for Public Purposes

6.3 Site Specific Provisions

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

SEPP No 21—Caravan Parks

SEPP No 36—Manufactured Home Estates

SEPP No 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

SEPP No 64—Advertising and Signage

SEPP No 65—Design Quality of Residential Flat Development

SEPP (Exempt and Complying Development Codes) 2008

SEPP (Housing for Seniors or People with a Disability) 2004

SEPP (Infrastructure) 2007

SEPP (Rural Lands) 2008

SEPP (Affordable Rental Housing) 2009

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain : **Refer to the the assessment section of his report. Any inconsistency is considered to be of minor significance.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The Planning Proposal will require alteration to the following map sheets;
Land Zoning,
Lot Size Map,
Dwelling Opportunity,
Floor Space Ratio,
Height of Buildings, and
Koala Habitat.

Mapping has been provided in the planning proposal to illustrate all proposed amendments. These are considered adequate for exhibition purposes.

Prior to seeking a Parliamentary Counsel opinion for the Plan, LEP mapping prepared in accordance with the Department's technical mapping guidelines will need to be prepared.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Whilst Council believe the proposal to be low impact in nature, certain aspects of the proposed rezoning have the potential to be problematic. Challenges with regards to infrastructure servicing and the exhibition of the DCP and draft VPA's create a Planning Proposal more complex in nature as both the DCP and draft VPA's require a 28 day exhibition period. For this reason, Council believe that it would be best to exhibit all documents (including the PP) for a period of 28 days. This request is considered appropriate.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment : The Planning Proposal and accompanying documentation are considered to satisfy the adequacy criteria by:
1. Providing appropriate objectives and intended outcomes;
2. Providing a suitable explanation of the provisions proposed by the LEP to achieve the outcomes;
3. Providing an adequate justification for the proposal;
4. Outlining a proposed community consultation program; and
5. Providing a project time line.

Council is seeking an authorisation to exercise its plan making delegations and has provided an evaluation checklist. The proposal seeks to amend the Koala Habitat map before a koala plan of management for the land has been approved. Therefore it is considered appropriate that an authorisation to exercise plan making delegations not be issued to Council until the koala plan of management for the land has been approved by the Secretary. This will enable the Department to ensure the mapping of the koala habitat is consistent with the approved koala plan of management.

The RPA has provided a project time line which estimates that the LEP will be ready for submission to the Department for notification in January 2017. Due to the potential complexity of the issues involved in the Planning Proposal a 12 month time frame is considered appropriate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : Port Macquarie Hastings (PMH) LEP 2011 was notified 23 February 2011. This proposal amends PMH LEP 2011.

Assessment Criteria

Need for planning proposal :

The Planning Proposal aims to rezone land identified as 'South Lindfield' in south-west Port Macquarie from RU1 Primary Production to permit urban development. South Lindfield has been identified as 'Proposed Future Urban Release Area' in the Department of Planning's MNCRS as well as an Urban Investigation Area in Council's UGMS. The Planning Proposal also arises from the following implementation actions in Council's UGMS;

- * Action 33 - consider potential for bulky goods development at 'Lindfield Park Road (now Holland Close) and between the old and new Oxley Highway alignments' and
- * Action 41 - continued planning for infill area for residential development at South Lindfield.

More specifically, the Planning Proposal will involve the rezoning of the subject land to a mixture of R1 General Residential, IN2 Light Industrial, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living. The complicated nature of the rezoning is a result of fulfilling the aims and objectives of the MNCRS and Council's UGMS as well as taking into account the ecologically sensitive nature of parts of the site. In this regard, Council has commissioned two environmental studies for the release area; 'Ecological Assessment at West Lindfield' - Biolink Ecological Consultants (which included the South Lindfield site) and a draft Koala Plan of Management for South Lindfield - Naturecall Environmental Consultants. Both of these studies have informed and guided the proposed rezoning for the site.

The Planning Proposal will also require amendments to the following map sheets;

- * LZN - the subject land will be rezoned to R1 General Residential, IN2 Light Industrial, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living).

- * LSZ - this will specify the MLS for subdivision and for zones E3 Environmental Management and E4 Environmental Living, the MLS for the erection of dwelling houses and dual occupancies (which must be attached). The following lot sizes will apply:

R1 General Residential - 450m²,

E2 Environmental Conservation - 1000m², 3000m², and 1.5ha

E3 Environmental Management - 1000m², 3000m², 8000m², and 1.5ha

E4 Environmental Living - 8000m², and

IN2 - 1.5ha.

- * DWE, to remove 12 Philip Charley drive from the dwelling opportunity map as the land already contains a dwelling,

- * FSR (the subject land currently has no FSR requirements. This will be amended to 0.65 for R1 General Residential zoned land).

- * HOB (the subject land currently has no HOB requirements. This will be amended to 8.5 for land zoned R1 General Residential and 11.5 for land zoned IN2 Light Industry.

- * KHA (the majority of the site apart from the Oxley Highway and land zoned IN2 Light Industry will be included in the KHA map. This brings into effect clause 7.5 of the PMH LEP 2011 and requires development in accordance with any relevant KPoM. A draft KPoM for the site is currently being refined by Council and the Office of Environment and Heritage (OEH).

In regards to the Oxley Highway corridor where it passes between two IN2 zones, Council have proposed an E3 Environmental Management Zone. As the site adjoins the main

entrance to Port Macquarie, Council believe that an appropriate landscape screen/visual buffer is required and do not believe that relying on the Roads and Maritime Services for plantings which can be trimmed and/or modified at their discretion will provide this. The planning proposal seeks to apply a 5m wide E3 Environmental Management Zone along the boundary of the existing and proposed IN2 zones on both the northern and southern sides of the highway corridor to provide an approximate 5m wide landscaping buffer.

Landscaping buffers can be required for development in the IN2 zone by conditions of development consent and an E3 zone is not necessary to achieve this. However a 5m wide strip of E3 zoned land will not prevent appropriate development of the industrial land as the minimum lot size for the entirety of the land zoned E3 and IN2 is appropriate to enable development of the land for employment generating purposes. It is considered that the proposed E3 zone is acceptable for community consultation.

As urban development of the subject land is prohibited under the current provisions of the LEP 2011, the most appropriate way to achieve the intended outcomes of both the MNCRS and UGMS is via this Planning Proposal.

Consistency with strategic planning framework :

The proposed rezoning is considered to be consistent with the objectives and actions of the MNCRS. The proposal is also consistent with the relevant actions of the UGMS.

SEPPs

The planning proposal has identified a range of SEPP's as being applicable to the proposal. In particular the following SEPP's have been addressed;

SEPP 44 Koala Habitat Protection

Ecological assessment and Koala studies conducted on the subject land have found that the site is within the home range of Koala's and contains core Koala habitat. A draft KPoM has therefore been prepared and rezoning of the land designed specifically around the key areas of habitat to be retained. Council is currently in the process of refining the KPoM in consultation with the Office of Environment and Heritage. Approval by Council and the Department will proceed closer to the development application stage of the proposal.

The Planning Proposal is considered to be consistent with the provisions of the SEPP.

SEPP 55 Remediation of Land

Assessment of a property on the corner of John Oxley Drive and Phillip Charley Drive revealed potential contamination from asbestos related materials. One such dwelling has since been removed. Whilst there is a general presumption that asbestos may be present in other older dwellings, the site investigations revealed that there is no contamination of the site that would prevent its rezoning for residential purposes.

The Planning Proposal is not considered to be inconsistent with the provisions of the SEPP.

SEPP (Exempt and Complying Development Codes) 2008

Some of the release area is subject to acoustic controls or Koala habitat area. As provided for by the Codes SEPP, the designation of the land as an ecologically sensitive area by virtue of the existence of koala habitat, precludes complying development under the General Housing Code and Rural Housing Code for the relevant land. The proposal seeks to extend the area designated as Koala habitat. A consequence of this is that no complying development under the General Housing Code will be permitted in the release area. While this is inconsistent with the SEPP as it precludes complying development on the land, it is considered to be appropriate if the koala plan of management confirms the presence of koala habitat, thereby making the land an ecologically sensitive area for the purposes of the SEPP. However the Koala Habitat map in the LEP should not be amended until the Secretary has approved a koala plan of management for the land. Council intends to exhibit a koala plan of management and the planning proposal concurrently and this matter will be resolved before the plan is made.

S117 Directions.

The Planning Proposal is considered to be consistent with all applicable S117 Directions apart from the following;

1.2 Rural Zones

This direction provides that a planning proposal shall not rezone land from rural to residential, business, industrial, village or tourist. A planning proposal may be inconsistent with this direction if the provisions which are inconsistent are justified by a strategy, a study or a regional strategy or are of minor significance. The land to be zoned from RU1 Primary Production to R1 General Residential and IN2 Light Industrial has been identified as part Proposed Future Urban release Area and part Proposed Employment Lands in the MNCRS and is also identified as part Urban investigation and part Employment in Council's UGMS. The inconsistency of the proposal is justified therefore as the land is within both the MNCRS and Council's approved UGMS.

2.1 Environmental Protection Zones

This direction provides that a draft plan must not reduce the environmental protection standards which apply to the land. The planning proposal will rezone the subject land

from RU1 Primary Production to R1 General Residential, IN2 Light Industrial, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living. As a result of the urban zoning for much of the site, it is proposed that some development on environmentally sensitive areas will be allowed where there is believed to be an overall benefit from offset planting that will and enhance/enlarge other areas of habitat and provide greater connectivity. Taking into account the proposed future planning intentions for the site, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living zones in particular, have been determined by the need to incorporate the outcomes of environmental investigations in a way that achieves urban development whilst protecting environmentally sensitive areas of habitat. A KPOM for the site is currently being assessed by the Office of Environment and Heritage (OEH) prior to approval by Council and the Department. The inconsistency of the proposal is justified as the land is included within both the MNCRS and Council's approved UGMS. Additionally, the expected impact on environmentally sensitive areas is likely to result in an overall net benefit as a result of off setting and therefore is considered to be of minor significance.

3.5 Development Near Licensed Aerodromes

This Direction applies to the proposal as it will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. The draft plan is located 1.9km from the runway of the Port Macquarie Airport and 900m from the southern approach and take-off path. Whilst the proposed provisions relating to the release area meet the Obstacle Limitation Surface requirements and there is no noise contour associated with the subject land, Council have not yet consulted with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome. This inconsistency therefore remains outstanding until such time that consultation takes place.

4.3 Flood Prone Land

This direction is relevant as the planning proposal will create, remove or alter a zone or provision that affects flood prone land. The direction provides that a planning proposal may be inconsistent with the Direction if a flood risk management plan has been prepared or the provisions of the proposal that are inconsistent are of minor insignificance.

Within the subject land, there is backwater flooding of the Hastings River Floodplain that can reach John Oxley Drive. The strip of land on the northern side proposed to be rezoned from IN2 Light Industrial to E3 Environmental Management is mapped as flood prone land whilst other smaller sections on the southern side of the Vilro property are also marginally affected.

The Flood Planning Area relevant to the subject land predominantly covers the Oxley Highway Carriageway and land proposed to be rezoned IN2 Light Industrial and does not cover R1 General Residential proposed land. The flood affectation of the site is therefore considered to be minor and combined with the fact that Council's LEP 2011 contains provisions relating to development within a flood planning area, it is considered that any inconsistency with section 117 direction 4.3 (Flood Prone Land) is considered to be of minor significance. Consultation with Office of Environment and Heritage is however recommended.

4.4 Planning for Bush Fire Protection

This Direction is relevant to the proposal as parts of the subject land are mapped as 'Category 1' and other as 'Buffer' on Council's Bushfire Prone Land Map.

The direction provides that the Council must consult with the Commissioner of the NSW Rural Fire Service, and must include provisions relating to bushfire control. Consultation with the Rural Fire Service (RFS) is required after the Gateway determination is issued and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

Environmental social
economic impacts :

The Planning Proposal aims to rezone identified as 'Proposed Future Urban Release Area' in the Department of Planning's MNCRS as well as an Urban Investigation Area in Council's UGMS. The proposed rezoning also incorporate the findings and recommendation of considerable environmental and infrastructure investigations.

Environmental impacts

Whilst some parts of the proposed rezoning will necessitate the removal of isolated Koala Feed Trees, it is anticipated that any small loss of habitat will be adequately compensated for by offset plantings that will help to increase and reinforce existing larger stands of habitat and linkage corridors. A detailed KPOM will be further assessed closer to the Development application stage of the proposal.

Under the Threatened Species Conservation Act 1995, several Endangered Ecological Communities were also found to exist on the subject land as well as some hollow bearing trees. The proposed rezoning has been designed to protect such biodiversity values by retaining and restoring EEC vegetation, retaining all hollow bearing trees and providing a buffer from development from the adjacent Lake Innes Nature Reserve. Further investigation is still however required in regards to the presence of the endangered Green and Golden Bell Frog on the site. Council has commissioned a targeted survey in and near the release area in regards to the presence of this species. It is anticipated the results will be available by May 2016.

Other impacts on the built environment may include land use conflict, traffic impacts and amenity. It is expected that these matters can be addressed by the development assessment process on a case by case basis.

Economic and Social Impacts

The Planning Proposal is consistent with the objectives and actions of the MNCRS particularly in relation to Settlement and Housing and Economic Development and Employment Growth.

Rezoning of the subject land has the potential to provide positive impacts from an increase in housing availability and employment land opportunities whilst helping to stimulate the local building economy and associated commercial activity.

Assessment Process

Proposal type :	Routine	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	Essential Energy Office of Environment and Heritage NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Other		
Is Public Hearing by the PAC required?	No		
(2)(a) Should the matter proceed ?	Yes		
If no, provide reasons :	Public Authority consultation should also occur with the Civil Aviation Authority of the Commonwealth due to the location of the proposed rezoning with the Port Macquarie Airport.		
Resubmission - s56(2)(b) :	No		
If Yes, reasons :			
Identify any additional studies, if required. :			
If Other, provide reasons :			

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Identify any internal consultations, if required :

Is the provision and funding of state infrastructure relevant to this plan? **Yes**

If Yes, reasons : **The proposed rezoning is listed as an Urban Release Area under PMH LEP 2011.**

Documents

Document File Name	DocumentType Name	Is Public
2016-03-11_PMHC PP - South Lindfield - cover letter.pdf	Proposal Covering Letter	Yes
2016-03-11_PMHC Planning Proposal - South Lindfield.pdf	Proposal	Yes
2015-11-18 - PMHC_Council resolution.pdf	Proposal	Yes
PMH LEP 2011 A#39_Eval Criteria for Delegations_completed.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 3.5 Development Near Licensed Aerodromes
- 4.1 Acid Sulfate Soils
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 5.1 Implementation of Regional Strategies
- 6.1 Approval and Referral Requirements
- 6.2 Reserving Land for Public Purposes
- 6.3 Site Specific Provisions

Additional Information :

- 1. The Planning Proposal be supported;
- 2. The Planning Proposal be exhibited for 28 days;
- 3. The Planning Proposal be completed within 12 months;
- 4. That the RPA consult with the Department of the Commonwealth responsible for aerodromes in accordance with the requirements of S117 Direction 3.5 Development Near Licensed Aerodromes;
- 5. That the RPA consult with the Commissioner of the NSW Rural Fire Services in accordance with the requirements of S117 Direction 4.4 Planning for Bushfire Protection;
- 6. That the Secretary (or her delegate) note the current inconsistency with section 117 Direction 3.5 Development Near Licensed Aerodromes and 4.4 Planning for Bushfire Protection and that this inconsistency will need to be resolved prior to the proposal being finalised;
- 7. It is recommended that a delegate the Secretary agree that the inconsistency of the proposal with S117 Directions 1.2, 2.1 and 4.3 are justified in accordance with the terms of the directions.
- 8. That consultation be undertaken with the following agencies:
 - Roads and Maritime Services
 - Environment Protection Authority
 - Office of Environment and Heritage
 - Essential Energy
- 9. Prior to undertaking public exhibition, Council is to complete a targeted survey of the presence of the endangered Green and Golden Bell Frog on the site

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to support the planning proposal. This material should be placed on public exhibition with the planning proposal;
10. A written authorisation to exercise delegation not be issued to Port Macquarie – Hastings Council in this instance until the koala plan of management for the subject land has been approved by the Secretary.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal is the result of the MNCRS 200-31 and PMHUGMS 2010-2031.
2. The proposal will result in the provision of additional housing in a major regional centre.
3. The inconsistencies of the proposal with the S117 directions are of minor significance.
4. The proposal is consistent with all relevant local and regional planning strategies, and SEPPs.

Signature:



Printed Name:

Paul Garnett

Date:

22/3/2016

*Acting Team Leader
Local Planning*

