
**13.07 LOCAL ENVIRONMENTAL PLAN 2011 - ADMINISTRATIVE
REFINEMENTS (AMENDMENT NO. 38) [PP2015-4.1]**

Councillor Sargeant declared a Non-Pecuniary, Significant Interest in this matter and left the room and was out of sight during the Council's consideration, the time being 7.43pm.

Mr Graham Burns, Land Dynamics Pty Ltd, addressed Council in support of the recommendation.

RESOLVED: Levido/Intemann

That Council:

1. Prepare a draft planning proposal as described in this report, pursuant to section 55 of the Environmental Planning and Assessment Act 1979, for the amendment of the provisions of Port Macquarie-Hastings Local Environmental Plan 2011, in relation to the Issues 1 - 4 and 6 - 9 as described in this report.
2. Forward the draft planning proposal to the Department of Planning and Environment for a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to sections 56 - 58 of the Act.
3. Request that the Director General of the Department of Planning & Environment issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under section 59 of the Act in respect of the planning proposal.
4. Request the General Manager report to the December 2015 Council Meeting as to issue 5 - Short Term Holiday Stays, as to more practical and accurate off-street car parking requirements.

CARRIED: 7/0

FOR: Besseling, Cusato, Hawkins, Intemann, Levido, Roberts and Turner

AGAINST: Nil

Councillor Sargeant returned to the meeting, the time being 7:53pm.

09.01 STATUS OF OUTSTANDING REPORTS TO COUNCIL

Councillor Turner left the meeting, the time being 7:53pm.

RESOLVED: Intemann/Hawkins

That the information in the September 2015 Status of Outstanding Reports to Council be noted.

CARRIED: 7/0

FOR: Besseling, Cusato, Hawkins, Intemann, Levido, Roberts and Sargeant

AGAINST: Nil

Planning and Providing Our Infrastructure

Item: 13.07

Subject: LOCAL ENVIRONMENTAL PLAN 2011 - ADMINISTRATIVE
REFINEMENTS (AMENDMENT NO. 38) [PP2015-4.1]

Presented by: Development & Environment Services, Matt Rogers

Alignment with Delivery Program

5.4.2 Review planning instruments and strategies to ensure currency and facilitate sustainable development outcomes whilst acknowledging the impact on community affordability.

RECOMMENDATION

That Council:

1. Prepare a draft planning proposal as described in this report, pursuant to section 55 of the *Environmental Planning and Assessment Act 1979*, for the amendment of the provisions of *Port Macquarie-Hastings Local Environmental Plan 2011*, in relation to the Issues 1 - 9 as described in this report.
2. Forward the draft planning proposal to the Department of Planning and Environment for a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to sections 56 - 58 of the Act.
3. Request that the Director General of the Department of Planning & Environment issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under section 59 of the Act in respect of the planning proposal.

Executive Summary

Council continually monitors the operation of *Port Macquarie-Hastings Local Environmental Plan 2011* to identify necessary refinements and adjustments to the LEP text and maps. This report considers a number of proposed administrative refinements to *Port Macquarie-Hastings Local Environmental Plan 2011*.

The issues are:

- 1 Zone B5 Business Development - allow Veterinary hospitals
- 2 Clause 7.14 Eco-tourist facilities - additional provisions
- 3 Laurieton Men's Shed, Dunbogan
- 4 Additional permitted uses - Cassegrain winery
- 5 Short-term holiday stays
- 6 Land zoned IN2, corner of High Street and Beechwood Road, Wauchope
- 7 E2 zoning slivers within Mill Hill subdivisions
- 8 Lot 123 DP 1148180, Bronzewing Terrace, Lakewood
- 9 Subdivision of Oxley Club land, Oxley Highway Wauchope
- 10 Primitive camping grounds

Planning and Providing Our Infrastructure

This report recommends LEP amendments in relation to issues 1-9 above. However, in relation to issue 10, the proposal to permit primitive camping grounds within the RU1 and RU2 zones, it is not proposed to amend the LEP due to complications with State Environmental Planning Policy No. 21 - *Caravan Parks*. It is instead proposed that site-specific proposals for camping grounds would be dealt with in a similar manner to other tourism proposals in rural areas, involving assessment of a combined development application and LEP amendment.

Discussion

Details of the proposed amendments are provided below.

Issue 1 - Zone B5 Business Development - allow Veterinary hospitals

Presently, veterinary hospitals are permissible with consent in zones:

- RU5 Village
- R5 Large Lot Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B4 Mixed Use
- IN1 General Industrial
- IN2 Light Industrial

A veterinary hospital is defined as a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

Zone B5 Business Development is used:

- in Port Macquarie at Bellbowrie, Hibbard, Lake Road, and the corner of Oxley Highway and John Oxley Drive, and
- in the Thrumster Town Centre.

Given the type of development typically undertaken in B5 zones, it is recommended that veterinary hospitals also be permitted with consent in the B5 zone.

Proposal: that the LEP be amended to permit veterinary hospitals with consent in Zone B5 Business Development.

Issue 2 - clause 7.14 Eco-tourist facilities—additional provisions

Following review of the operation of the eco-tourist facilities LEP provisions, at its meeting on 17 June 2015 Council:

RESOLVED: *Griffiths/Turner*

That Council incorporate draft provisions to permit eco-tourism on land where a dwelling is permissible or where a dwelling currently exists on an undersized lot in a rural zone, in the next administrative review of the LEP.

CARRIED: 8/0

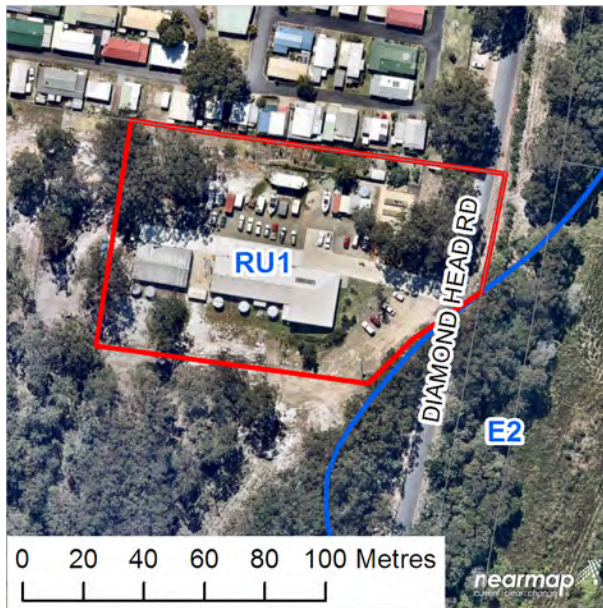
FOR: *Besseling, Cusato, Griffiths, Intemann, Levido, Roberts, Sargeant and Turner*

AGAINST: Nil

Planning and Providing Our Infrastructure

Proposal: that clause 7.14 of the LEP be amended to permit eco-tourism on land where a dwelling is permissible or where a dwelling currently exists on an undersized lot in a rural zone.

Issue 3 - Laurieton Men's Shed, Dunbogan



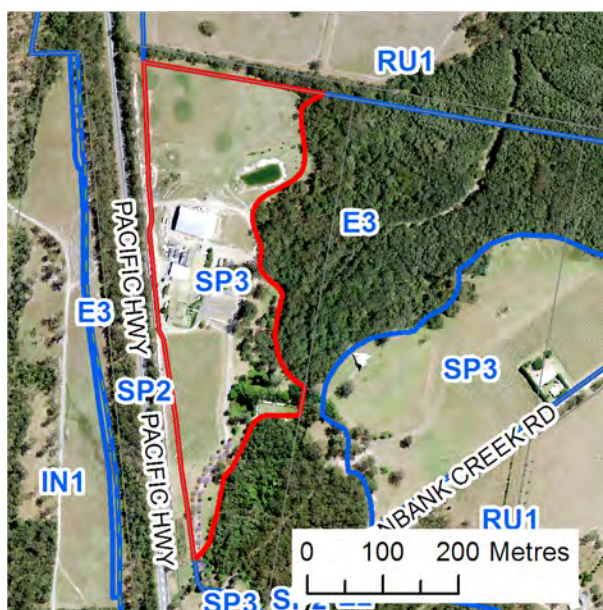
The Men's Shed was constructed on Lot 2 DP 1083711, Diamond Head Road, being land owned by Mr Ross Hanslow. The Men's Shed organisation now wish to have ownership over the leased area (8661 sq m) of Lot 2 that contains the shed. The minimum lot size required is 40 Ha, which can't be achieved for a 2 lot subdivision of a 48 Ha lot.

It is proposed that the LEP be amended to permit subdivision to excise the area containing the Men's Shed from the balance of Lot 2.

This is a site specific amendment that is being considered to support and existing community facility. It is the staff view that this approach will not create an undesirable precedent for subdivision creating undersized rural lots.

Proposal: that the LEP be amended to permit a subdivision which allows separate title of the Laurieton Mens' Shed leased area within Lot 2 DP 1083711, Diamond Head Road, Dunbogan.

Issue 4 - Additional permitted uses - Cassegrain winery



In November 2014 three lots on Fernbank Creek Road (including the winery) were rezoned to part SP3 Tourist and part E3 Environmental Management. In conjunction with the winery there is interest in an associated brewery, which is not a permissible use in the SP3 zone.

The operation of a small scale brewery in conjunction with the existing winery is considered to have potential merit given the nature of existing development and the proximity of the SP3 land to future industrial development in the Sancroix area.

Planning and Providing Our Infrastructure

Accordingly, it is proposed to make agricultural produce industry, cellar door premises, and light industry permissible with consent as additional permitted uses on the land zoned SP3 within Lot 10 DP 1185123.

Proposal: that the LEP be amended to make agricultural produce industry, cellar door premises, and light industry permissible with consent as additional permitted uses on the land zoned SP3 within Lot 10 DP 1185123, Fernbank Creek Road, Fernbank Creek.

Issue 5 - short-term holiday stays

Under LEP 2011 there is a distinction between:

- residential accommodation - '... predominately a place of residence ...', and
- tourist and visitor accommodation - '... provides temporary or short-term accommodation on a commercial basis ...'.

However, there is some ambiguity regarding the use of dwellings for short-term holiday rentals and Council regularly receives enquiries and complaints about the short-term letting of detached dwellings or dwellings within a residential flat building. This is a common issue for many local councils in popular tourist destinations, yet councils generally find it difficult to regulate and manage this type of activity through the planning system.

Historically, Council has not sought development consent for the use of single detached dwellings for short-term holiday letting. Older residential flat buildings and multi-dwelling housing approvals are often silent on the length of stays permitted. Many of these buildings, particularly around the central business district of Port Macquarie and near the beaches, have a combination of short-term and permanent usage.

An amendment to LEP 2011 is proposed in order to clarify the position regarding approval requirements for short-term letting. The aim is to limit approval requirements on small scale, short-term holiday stays, whilst providing for consideration of issues associated tourist stays in larger buildings and in areas with potential emergency access issues.

It is acknowledged that there is potential for poorly managed short-term holiday letting to have impacts on neighbours. Experience has shown that it is less effective to deal with such impacts through the planning system than through alternate regulatory means.

Proposal: that the LEP be amended to make short-term holiday letting exempt development, where:

- 1) The subject dwelling must be located in a zone where dwelling houses or shop-top housing are permitted with development consent.
- 2) The dwelling must be existing and either be a dwelling house or a dwelling within a dual occupancy, multi dwelling housing, residential flat building or shop top housing.
- 3) The dwelling must not contain more than 5 bedrooms.

Planning and Providing Our Infrastructure

- 4) The dwelling must be serviced by a general waste garbage bin of at least 240L capacity.
- 5) At all entry points to the property a legible sign (no larger than 0.25 square metres in area) is displayed, stating the management contact name and telephone details in relation to the dwelling.
- 6) If the dwelling is located in a bush fire prone area, a bush fire emergency management and evacuation plan must be prominently displayed within the dwelling.
- 7) If the dwelling is serviced by an on-site sewage management system, the number of persons occupying the dwelling must not exceed the number of persons stated as the capacity for that system.
- 8) A minimum of one off street car parking space is to be available for the dwelling.

Issue 6 - Land zoned IN2, corner of High Street and Beechwood Road, Wauchope



On the corner of High Street and Beechwood Road, Wauchope a group of properties are zoned IN2 Light Industrial, based on historic land uses. As Wauchope grows, it would be appropriate to facilitate business redevelopment - as long as it is compatible with traffic management at that intersection.

A B4 Mixed Use zone is proposed - which permits a range of commercial uses with consent, including vehicle sales and hire. This zone does not permit new vehicle repair stations, but existing use planning provisions allow ongoing use and modifications for

the existing Wauchope Motors business.

The properties are:

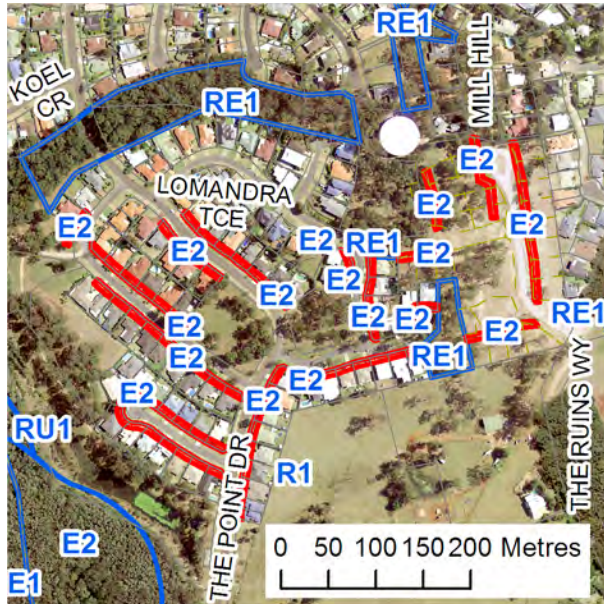
- Lot 4 DP 511245, 17 Graham St
- Lot 2 DP 1182120, 81 High St
- Lot 1 DP 1182120, 83 High St
- Lot 1 DP 745090, 85 High St
- Lot 75 Sec B DP 979174, 85 High St
- Lot 102 DP 1048116, 87 High St.

Proposal: that the LEP be amended by rezoning to Zone B4 Mixed Use the land currently zoned IN2, corner of High Street and Beechwood Road, Wauchope.

Planning and Providing Our Infrastructure

Issue 7 - E2 zoning slivers within Mill Hill subdivisions

The consent for residential subdivision of Innes Peninsula included Koala Plan of Management provisions to protect koala habitat and movement corridors. This included applying strips of E2 Environmental Conservation zone along the front building line of some areas.



This approach has not been successful for multiple reasons and the corridors of trees have been compromised by tree removal.

This is an example of the difficulty in integrating housing into known areas of koala habitat and highlights the need for careful consideration in the Coastal Areas Koala Plan of Management currently being prepared by Council.

The 70 affected properties cover:

- 1-16 Crane Place,
- 16-27 Lomandra Terrace,
- 4-16 Redbill Rise,
- 43, 45, 47, 49, 51, 53-77B

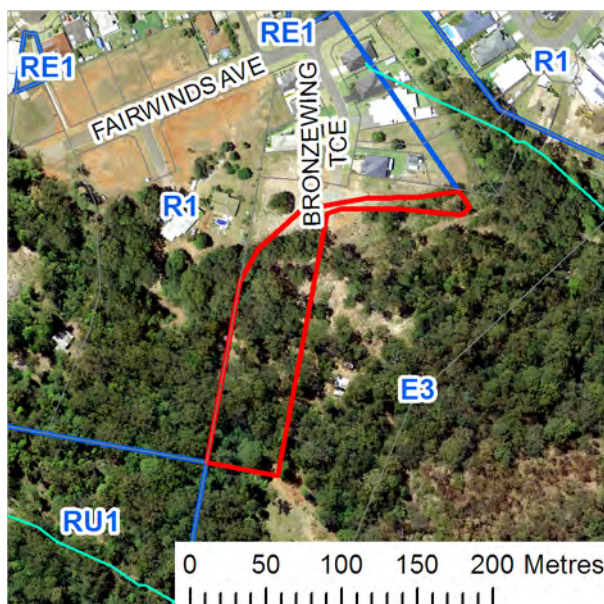
The Point Drive,

- 5-32 Wonga Crescent, and
- undeveloped land owned by Charley Brothers Pty Ltd.

Proposal: that, in relation to the thin strips of land within the Mill Hill subdivisions, Innes Peninsula, zoned E2 zoned and shown above, Council prepare a planning proposal to:

- a) on the Land Zoning Map - apply Zone R1 General Residential,
- b) on the Lot Size Map - apply G - 450 sq m minimum lot size,
- c) on the Floor Space Ratio Map - apply G - 0.65:1, and
- d) on the Height of Buildings Map - apply I - 8.5 m.

Issue 8 - Lot 123 DP 1148180, Bronzewing Terrace, Lakewood



Lot 123 was part of Development Application 2009-0215, for subdivision of land at Lakewood, for which consent was granted in October 2012. During the period it was being processed, LEP 2011 was being prepared and finalised. Given problems with providing adequate water pressure above 30m AHD at Lakewood, the LEP repositioned the boundary of the residential zone to that contour. Consent for the DA was granted on the basis that LEP 2011 was not in

Planning and Providing Our Infrastructure

force, as provided for by clause 1.8A.

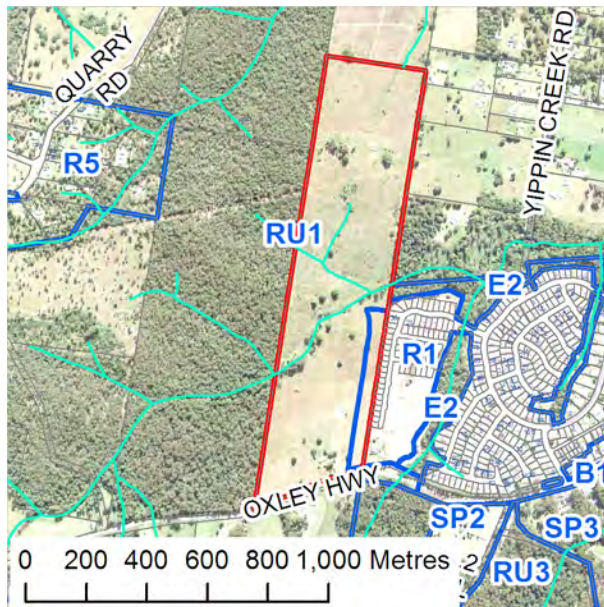
The applicant is seeking to carry out the approved development (subject to a modification currently being considered).

Given that the development is proposed to be completed, it is appropriate to reinstate the previous boundary for the residential zone, so that the new lots have the appropriate zone.

Proposal: that the LEP be amended in relation to part Lot 123 DP 1148180, Bronzewing Terrace, Lakewood, as shown on the map extract:

- on the Land Zoning Map - apply Zone R1 General Residential,
- on the Lot Size Map - apply G - 450 sq m minimum lot size,
- on the Floor Space Ratio Map - apply G - 0.65:1, and
- on the Height of Buildings Map - apply I - 8.5 m.

Issue 9 - Subdivision of Oxley Club land, Oxley Highway Wauchope



Lot 2 DP1036844 Oxley Highway is 47 Ha in area, and is bisected by Yippin Creek. The property is identified in Council's *Urban Growth Management Strategy 2011-2031* as an Urban Investigation area. It is all zoned RU1 Primary Production other than a strip zoned R1 General Residential along the eastern boundary south of Yippin Creek.

Consent has been granted for a mobile home estate on the balance of the southern portion. For ease of management of the different development areas within the lot, it has been requested that Council facilitate subdivision of the property roughly along the creekline,

meaning lots of appropriately 18 ha (including the area zoned R1) and 29 ha.

There are several options for permitting such a subdivision, with the easiest being to apply a minimum lot size of 10 ha to the whole property. Given that urban development is anticipated in the future, it is considered reasonable to apply the 10 ha in this case.

Proposal: that the LEP be amended, in relation to that part of Lot 2 DP 1036844, Oxley Highway Port Macquarie zoned RU1 - to apply a minimum lot size of 10 ha on the Lot Size Map.

Issue 10 - Primitive camping grounds

At its meeting on 15 April 2015 Council considered a report reviewing 12 months' operation of LEP provisions permitting eco-tourist facilities. Council resolved:

Planning and Providing Our Infrastructure

RESOLVED: Griffiths/Roberts

That Council:

1. *Note the report.*
2. *Investigate permitting camping grounds within the RU1 Primary Production and RU2 Rural Landscape Zones in the next administrative review of the LEP.*
3. *Seek feedback from the Economic Development Steering Group on the impact of current eco-tourism LEP provisions.*

CARRIED: 8/0

FOR: Besseling, Cusato, Griffiths, Intemann, Levido, Roberts, Sargeant and Turner

AGAINST: Nil

Consultation has been undertaken with the Economic Development Steering Group, as discussed under Issue 2 above. As a consequence, it is proposed that clause 7.14 of the LEP be amended to permit eco-tourism on land where a dwelling is permissible or where a dwelling currently exists on an undersized lot in a rural zone.

In addition, the permissibility of camping grounds has been considered in a report to Council at its meeting on 17 June 2015. The report stated in part:

A review of the permissibility of camping grounds has been identified as a possible initiative by Council to permit additional appropriate rural tourism development. It is proposed that this be assessed in more detail and that a separate report be submitted to Council on this proposal.

It had been thought that Council could:

- a) amend the LEP to permit camping grounds within the RU1 and RU2 zones, and
- b) under approvals required under the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005*, restrict camping grounds within those zones to 'primitive camping grounds' (as described in clauses 71-73 & 132).

However, once camping grounds are permitted within the rural zones so are caravan parks (under *SEPP No 21 - Caravan Parks*), and also, for rural-zoned land identified in an approved strategy for investigation for urban development, manufactured home estates (under *SEPP No 36 - Manufactured Home Estates*). Premature development of future urban land by a manufactured home estate can compromise optimal configuration of land uses, development corridors and infrastructure sequencing. Similarly, there are concerns about the potential for inappropriate proposals for large caravan parks in out of town locations.

In accordance with the current Port Macquarie-Hastings Urban Growth Management Strategy, Council is able to prioritise LEP amendments for specific tourist facilities, including camping grounds and caravan parks, where these proposals are considered to have merit. To date, since adoption of the UGMS in 2011, there have been no specific proposals.

Council's *Urban Growth Management Strategy 2011-2031* - the Executive Summary states in part:

Tourism activities in rural and natural areas in the Hastings, such as adventure, food and wine, cultural heritage, adventure and nature-based tourism will also be

Planning and Providing Our Infrastructure

promoted, including "Ecotourist" facilities, subject to consideration of potential impacts and the types and scale of facilities permitted. Larger scale rural based tourism will be considered by Council on merit, taking into account the provisions of the Mid North Coast Regional Strategy and the Settlement Planning Guidelines.

This means that Council can consider a combined rezoning and development application for any camping ground that is proposed and assess the proposal on merit at that time.

Proposal: In relation to primitive camping grounds, it is proposed that no amendment be made to the LEP and that site-specific proposals be dealt with on a similar basis to tourism proposals in rural areas.

Options

Council could choose to omit or modify the proposal for any of the issues. Council could also choose not to proceed with the preparation of a planning proposal at this time. It is recommended that Council proceed with the preparation of a planning proposal to amend LEP 2011 for Issues 1 to 9, as described above.

Community Engagement & Internal Consultation

There has been some internal consultation on the issues in this report. The process for amending the LEP will involve community engagement, with a public exhibition period of at least 14 days.

A further report will be submitted to Council following the community engagement.

Planning & Policy Implications

These proposed minor amendments will facilitate future development through the fine-tuning of the LEP provisions.

Financial & Economic Implications

The preparation of administrative amendments to LEP 2011 is identified in Council's current Operational Plan and is a key function of Council's Land Use Planning Division. There are no expected economic impacts or financial impacts for Council in the proposed LEP amendments.

Attachments

Nil