

Port Macquarie-Hastings LEP 2011 - Amendment No 38 Housekeeping amendments of corrections and refinements

Proposal Title :	Port Macquarie-Hastings LEP 2011 - Amendment No 38 Housekeeping amendments of corrections and refinements		
Proposal Summary :	The purpose of the Planning Proposal is to undertake the following amendments to Port Macquarie-Hastings LEP 2011: 1. amend landuse table for the B5 Business Development zone to allow veterinary hospitals with consent; 2. include a provision to permit with consent Eco-tourism on land zoned RU1 Primary Production and RU2 Rural Landscapes where a dwelling is permissible or where a dwelling currently exists on an undersized lot (within certain zones only); 3. amend the minimum lot size map to permit subdivision of an area of Lot 2 DP 1083711, Diamond Head Rd, Dunbogan for the purpose of a 'Men's Shed' (existing); 4. inclusion of additional permitted uses (with consent) associated with Cassegrain Winery at 764 Fernbank Creek Road, Fernbank Creek. Proposed uses are 'Agricultural produce industries', 'Cellar door premises' and 'Light industry'. 5. rezone several properties at the intersection of High St and Beechwood Rd, Wauchope, from IN2 Light Industrial to B4 Mixed Use; 6. rezone specific land at Mill Hill from E2 Environmental Conservation to R1 General Residential and apply appropriate lot size, building height and floor space ratio controls; 7. rezone a larger portion of Lot 123 DP 1148180, Bronzewing Terrace, Lakewood from E3 Environmental Management to R1 General Residential and apply appropriate lot size, building height and floor space ratio controls; 8. amend the minimum lot size map to permit subdivision of Lot 2 DP 1036844, Oxley Highway, Wauchope, in line with Council's 'Urban Growth Management Strategy 2011-2031'.		
PP Number :	PP_2016_PORTM_001_00	Dop File No :	16/02289

Proposal Details

Date Planning Proposal Received :	19-Feb-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 within Port Macquarie-Hastings LGA as indicated on the maps included in the Planning Proposal		

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DoP Planning Officer Contact Details

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DoP Project Manager Contact Details

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

Growth Centre :	Other	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) :	0.92	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	12
Gross Floor Area :	0	No of Jobs Created :	0
The NSW Government Lobbyists Code of Conduct has been complied with :	Yes		
If No, comment :	The Department of Planning & Environment Code of Practice in relation to communication 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 :	Northern Region has not met any lobbyists in relation to this proposal, nor has Northern Region been advised of any meeting between other departmental officers and lobbyists concerning this proposal.		

Supporting notes

Internal Supporting
Notes :

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

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

4.1 Acid Sulfate Soils

4.3 Flood Prone Land

4.4 Planning for Bushfire Protection

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 44—Koala Habitat Protection

SEPP No 55—Remediation of Land

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 relates to eight (8) individual issues. Issues 1 & 2 require amendments to be made to the EPI only. Issues 3 - 8 (inclusive) will require the alteration of the following map sheets; LZN, LSZ, FSR, MLS, HoB and APU. "Thumbnail" maps have been provided in the planning proposal to illustrate the amendments required as a result of issues 3 - 8. 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 : **Council believe the proposal to be low impact in nature and as such have indicated a**

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14 notification period for exhibition. This timeframe 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. As the Planning Proposal deals only with matters of local significance, it is considered appropriate that an authorisation to exercise its plan making delegations be issued to Council.

The RPA has provided a project time line which estimates that the LEP will be ready for submission to the Department for notification in September 2016. Due to the number of issues addressed in the Planning Proposal and to ensure an adequate period to complete the proposal, a 12 month time frame is recommended.

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 majority of issues dealt with in the planning proposal do not result from any strategic study or report but have arisen as a result of continued monitoring of the accuracy of the LEP and/or specific requests from the public. Issue 8 in relation to the alteration of the MLS for the subject land is however a direct result of Council's 'Urban Growth Management Strategy 2011-2031.

The following amendments to PMH LEP 2011 are proposed;

1. amend landuse table for the B5 Business Development zone to allow veterinary hospitals with consent;
2. include a provision to permit with consent Eco-tourism on land zoned RU1 Primary Production and RU2 Rural Landscapes where a dwelling is permissible or where a dwelling currently exists on an undersized lot (within certain zones only);
3. amend the minimum lot size map to permit subdivision of an area of Lot 2 DP 1083711, Diamond Head Rd, Dunbogan for the purpose of a 'Men's Shed' (existing);
4. inclusion of additional permitted uses (with consent) associated with Cassegrain Winery at 764 Fernbank Creek Road, Fernbank Creek. Proposed uses are 'Agricultural produce industries', 'Cellar door premises' and 'Light industry'.
5. rezone several properties at the intersection of High St and Beechwood Rd,

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Wauchope, from IN2 Light Industrial to B4 Mixed Use;

6. rezone specific land at Mill Hill from E2 Environmental Conservation to R1 General Residential and apply appropriate lot size, building height and floor space ratio controls;

7. rezone a larger portion of Lot 123 DP 1148180, Bronzewing Terrace, Lakewood from E3 Environmental Management to R1 General Residential and apply appropriate lot size, building height and floor space ratio controls;

8. amend the minimum lot size map to permit subdivision of Lot 2 DP 1036844, Oxley Highway, Wauchope, in line with Council's 'Urban Growth Management Strategy 2011-2031'.

As the proposal intends to make changes to the principal plan, an amendment such as this is the best way to achieve such changes.

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Consistency with strategic planning framework :

There is no inconsistency with the Council's strategic planning (HUGS 2010-2031) or the Mid North Coast Regional Strategy.

SEPP 44 Koala Habitat Protection

Issue 6 (Mill Hill rezoning of E2 to R1) contains Koala Feed Trees hence the original purpose of the E2 zoning. Many of these trees have however been removed legally over the years to accommodate for the surrounding residential development. Given this fact, the planning proposal is unlikely to impact on koala habitat and as such is considered to be consistent with SEPP 44.

SEPP 55 Remediation of Land applies to Issues 1,2, 4 & 5 within the Planning Proposal. Whilst some of these sites contain known contaminated land and the potential for contaminated land due to past and present use, Council is of the belief that any changes to permissible uses or zoning would be suitable (upon remediation if required) for the uses proposed in the Planning Proposal.

The Planning Proposal is therefore not considered to be inconsistent with the SEPP's identified by Council.

In regards to section 117 directions, the following assessment has been made;

1.1 Business and Industrial Zones

This Direction applies to Issues 1 and 5 as the proposed amendments will affect Business and Industrial zoned land.

Issue 5 - rezone several properties at the intersection of High St and Beechwood Rd, Wauchope, from IN2 Light Industrial to B4 Mixed Use. Any inconsistency with this Direction can be justified as being of minor significance as the land will be rezoned to B4 Mixed use thus enabling continued employment generating land uses on the site, and existing industrial uses may continue to operate.

1.2 Rural Zones

This Direction applies to Issues 2, 3 and 8 as the proposed amendments will affect land Rural zoned land.

Issue 3 - The proposed amendment will reduce the minimum lot size for the subject lot to allow for the subdivision of an existing leased area of land 8661 sqm for the Laurieton Men's Shed. No loss of agricultural value will occur as the site is already fully developed. Any inconsistency is therefore considered to be of minor significance.

Issue 8 - Whilst this amendment will affect Rural zoned land, any change in MLS and future subdivision is in accordance with an approved strategy (HUGS 2011-2031) and reflects consent granted for a manufactured home estate, and therefore the inconsistency of the proposal with the Direction is considered to be justified in accordance with the terms of the direction.

1.5 Rural Lands

This Direction applies to Issues 2,3 and 8 and provides that a planning proposal should not affect land within a rural or environmental protection zone or reduce the minimum lot size applying to land unless consistent with the Rural Planning Principles or Rural Subdivision Principles in SEPP (Rural Lands).

Issue 2 & 3 - These two proposed amendments are considered to be consistent with this Direction as they are consistent with the Rural Subdivision and Rural Planning Principles in the SEPP for the following reasons:

- they promote opportunities for productive use of rural land;
- they contribute to the social and economic welfare of rural communities;
- they take into consideration the existing land uses on the land.

Issue 8 - Whilst this proposed amendment aims to reduce the MLS for the subject land, any inconsistency with this Direction is considered justified as future subdivision of the site is in accordance with an approved strategy (HUGS 2011-2031).

2.1 Environment Protection Zones

This Direction applies to the amendments proposed in Issue 6 and 7 as they apply to land within an environmental protection zone.

Issue 6 - The land zoned E2 in this area is confined to very narrow slivers along the front building setbacks of a well developed residential area. The original purpose was to protect Koala Feed Trees located along street frontages. As a result however of clearing necessary to facilitate urban development, many of these trees have been lost, and as a consequence the E2 zoning is no longer appropriate for the land. New approaches to the protection of Koala habitat over the years has also meant that the intended outcome of this zoning has not been achieved, and the Koala Plan of Management will continue to provide the most appropriate protection for koala habitat in the area. For these reasons it is considered that any inconsistency with this Direction is considered to be of minor significance.

Issue 7 - The E3 Environmental Management zone was originally placed over this land to deal with issues of inadequate water pressure over 30 AHD in relation to residential development at Lakewood. Consent was granted for this development in 2012 and the owners are now wishing to proceed with the development on that part of the lot zoned E3. Any inconsistency with this Direction is considered to be of minor significance as the original intent of the E3 zoning did not relate to the protection of environmentally sensitive areas and has since been resolved.

2.3 Heritage Conservation

This Direction is applicable as a heritage item listed in PMH LEP 2011 is situated on one of the lots to be rezoned in Issue 5. Whilst the zoning of the specific lot will change, the heritage item is protected by the relevant heritage provisions contained in PMH LEP 2011. Any inconsistency therefore is considered to be of minor significance.

4.1 Acid Sulfate Soils

This direction states that any possible intensification of land use will need to be considered given the presence of acid sulfate soils. Proposed amendments detailed in Issues 2, 3 & 4 are potentially affected by Acid Sulfate Soils. The proposed amendments will not result in a significant intensification of land uses and therefore any inconsistency with this Direction is considered to be of minor significance, as PMH LEP 2011 currently contains provisions requiring an acid sulfate soils management plan for proposed works on such land.

4.3 Flood Prone Land

This Direction applies as land contained within the proposed amendments of Issues 1, 2, 3 & 4 is located within a flood planning area or affected by a PMF. Given the proposal only allows limited additional land uses on the land or the land is already developed, and considering Port Macquarie-Hastings (PMH) LEP 2011 contains provisions relating to development within a flood planning area, 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.

Note: Whilst the land contained with Issue 8 is traversed by Yippin Creek, it is not officially mapped as flood prone land. Relevant provisions contained within PMH LEP 2011 are able to address any potential flooding issues at the development assessment stage.

4.4 Planning for Bushfire Protection

This Direction applies to the proposed amendments detailed in Issues 1, 2, 3, 4, 6, 7 & 8 as land is classified as bushfire prone.

The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire

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Service after a Gateway Determination has been issued. Until this consultation has occurred the consistency of the proposal with the Direction remains unresolved.

6.3 Site Specific Provisions

Whilst the Planning Proposals refers to this Direction as being applicable, no restrictive site specific planning controls will be included as a result of the proposed amendments.

Environmental social
economic impacts :

The planning proposal will not have any direct adverse impact on critical habitat or threatened species, populations or ecological communities, or their habitats. Despite portions of E2 Environmental Conservation zoned land being rezoned in Issue 6, the potential impact on Koalas is considered negligible as the area is already highly disturbed as a result of residential development.

The proposed amendments which enable an intensification of development potential over land, have the potential for indirect effects on the natural and socioeconomic environments. Individual developments may have an impact on the natural environment as a result of clearing for access and bush fire protection, and effluent disposal. The impacts on the built environment will 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.

In regards to the socio-economic environment, the relevant amendments have the potential to provide positive impacts from an increase in housing availability and choice as well as stimulating commercial activity from a broadening of permissible landuses within certain zones.

Assessment Process

Proposal type : **Routine** Community Consultation **14 Days**
Period :

Timeframe to make **9 months** Delegation : **RPA**
LEP :

Public Authority **Office of Environment and Heritage**
Consultation - 56(2)(d) **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 :

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

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Documents

Document File Name	DocumentType Name	Is Public
2016-02-19_Planning Proposal V2.pdf	Proposal	Yes
2016-02-19_PMHC PP Cover Letter.pdf	Proposal Covering Letter	Yes
2016-02-19_Att 4 Eval Crit for Delegations_complete.pdf	Determination Document	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**
 1.5 Rural Lands
 2.1 Environment Protection Zones
 2.3 Heritage Conservation
 4.1 Acid Sulfate Soils
 4.3 Flood Prone Land
 4.4 Planning for Bushfire Protection
 6.3 Site Specific Provisions

Additional Information : **It is recommended that:**

- 1. The Planning Proposal be supported;**
- 2. The Planning Proposal be exhibited for 14 days;**
- 3. The Planning Proposal be completed within 12 months;**
- 4. 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;**
- 5. That the Secretary (or her delegate) note the current inconsistency with section 117 Direction 4.4 Planning for Bushfire Protection and that this inconsistency will need to be resolved prior to the proposal being finalised;**
- 6. It is recommended that a delegate the Secretary agree that the inconsistency of the proposal with S117 Directions 1.2, 1.5, 2.1, 4.1 and 4.3 are justified in accordance with the terms of the directions.**
- 7. That consultation be undertaken with the following agencies:**
 - Roads and Maritime Services**
 - Environment Protection Authority**
 - Office of Environment and Heritage**
- 8. A written authorisation to exercise delegation is issued to Port Macquarie – Hastings Council in this instance to enable Council to make the plan.**

Supporting Reasons : **The reasons for the recommendation are as follows;**
1. The proposed amendments will ensure an accurate and current LEP for Port Macquarie – Hastings which will provide confidence and clarity in the planning controls.
2. The inconsistencies of the proposal with the S117 Directions are of minor significance

Signature: _____

Printed Name: _____



PAUL CARNETT

Date: _____

29/2/2016

*Acting Team Leader
Northern Region*

