

Port Macquarie-Hastings LEP 2011 Amendment No 41 - Rezone Lot 7 DP 1142473, Reading St, Port Macquarie

Proposal Title :	Port Macquarie-Hastings LEP 2011 Amendment No 41 - Rezone Lot 7 DP 1142473, Reading St, Port Macquarie		
Proposal Summary :	The planning proposal relates to Lot 7 DP 1142473 the purpose of which is to facilitate residential development by: * rezoning the portion of the lot currently zoned R1 General Residential to E2 Environmental Conservation; * rezoning a portion of the lot currently zoned RU6 Transition and E2 Environmental conservation to R1 General Residential; and * amending the relevant lot size and floor space ratio of the subject land.		
PP Number :	PP_2016_PORTM_004_00	Dop File No :	16/12298

Proposal Details

Date Planning Proposal Received :	14-Sep-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 :	Reading St		
Suburb :		City :	Port Macquarie
		Postcode :	2444
Land Parcel :	Lot 7 DP 1142473		

DoP Planning Officer Contact Details

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RPA Contact Details

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DoP Project Manager Contact Details

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Port Macquarie-Hastings LEP 2011 Amendment No 41 - Rezone Lot 7 DP 1142473, Reading St, Port Macquarie

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) :	0.30	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	3
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 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? :	Yes		
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 proposal essentially aims to swap the location of the current R1 & E2 zones within the subject lot for the purpose of facilitating residential development. The proposed R1 zone lots will be located on land that has less environmental constraints in regards to ecological values and is clear of flooding.
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 intention of the Planning Proposal in relation to proposed changes to land in Reading St, Port Macquarie.**

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

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

Comment : **The explanation of provisions adequately addresses the intended changes to Port Macquarie-Hastings LEP 2011 in relation to the subject land in Reading St, Port Macquarie.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.5 Rural Lands

2.1 Environment Protection Zones

* May need the Director General's agreement

2.2 Coastal Protection

3.1 Residential Zones

3.2 Caravan Parks and Manufactured Home Estates

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 71—Coastal Protection

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

Port Macquarie Urban Growth Management Strategy 2011-2031

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 :

While the amended LEP map sheets have not been provided at this stage, the Planning Proposal includes maps identifying the land and the proposed changes. These are considered adequate for public exhibition purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment :

Whilst the proposal is considered to be low impact in nature, Council has identified a 28 day community consultation period as they also intend to concurrently exhibit the related development application and proposed Voluntary Planning Agreement. The proposed exhibition 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.

Port Macquarie-Hastings LEP 2011 Amendment No 41 - Rezone Lot 7 DP 1142473, Reading St, Port Macquarie

Council is seeking an authorisation to exercise its plan making delegations. As the proposal deals with only matters of local significance, it is recommended that an authorisation to exercise plan making delegations be issued to Council in regard to this matter.

The RPA has provided a project time line which estimates that the LEP will be ready for notification in February 2017. This 6 month timeframe may however prove to be difficult to achieve given that it incorporates the Christmas period. A 9 month timeframe is considered more suitable to allow Council to adequately complete the draft LEP.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP :

Port Macquarie-Hastings comprehensive LEP 2011 was made in February 2011.

Assessment Criteria

Need for planning proposal :

Whilst the planning proposal is consistent with the Mid North Coast Regional Strategy 2006-31(MNCRS) and Council's Urban Growth Management Strategy 2011-2031 (UGMS), it is not a direct result of these.

The planning proposal aims to permit residential development on the subject land by essentially swapping the location of the existing R1 General Residential zoned portion of the site (south-eastern corner) to a location (western side) that will have less environmental impact once developed. Council believes that re-configuring the specific locations of zones within the subject land will provide better habitat connectivity to the vegetated Wrights Creek corridor to the north and the Sea Acres Nature Reserve to the east. The proposal will also allow for residential lots to be created on land that is entirely flood free.

Council is also concurrently considering a development application for a boundary adjustment between the subject land and the adjoining Lot 15 DP 1099742, the creation of 3 residential lots within Lot 7 DP 1142473 and the dedication of the balance of Lot 7 (proposed Lot 5) to Council as a public reserve. This dedication of approximately 1.5 ha to Council will require a Voluntary Planning Agreement (VPA). Council proposes to exhibit both the DA and VPA with the planning proposal.

As a result of the concurrent planning proposal and DA (the proposed development for the land is currently prohibited under existing zoning), Council have foreshadowed the possible need for the draft LEP to contain a savings provision that will allow Council to consider the DA and determine it once the land has been rezoned. A draft clause to this effect has been included in the planning proposal. As this is a drafting issue it is unnecessary and confusing to have references to this issue in the planning proposal. A condition will be included that references to the need for savings provisions should be removed from the proposal and can be included by parliamentary counsel if needed at drafting stage.

A comprehensive ecological assessment has been undertaken of the site and found that:

- * No critical habitat will be affected;
- * The site does contain threatened flora species - Biconvex Paperbark which is located over the central, eastern and western parts of the site in both the wet sclerophyll forest and swamp rainforest communities. This paperbark is common on adjoining land, throughout Port Macquarie and likely to occur within the Wrights Creek corridor. Clearing of the APZ for the proposed R1 zone will necessitate the removal of approximately 6 trees

Port Macquarie-Hastings LEP 2011 Amendment No 41 - Rezone Lot 7 DP 1142473, Reading St, Port Macquarie

with a trunk diameter of over 20m. This will have a negligible impact on the local populations of Biconvex Paperbark; and

* The site as a whole contains 3 Endangered Ecological Communities (EEC). The proposed R1 zone and residential lots do not however contain any EEC, while the current R1 zone does.

The proposed rezoning is considered to be the only means by which to achieve the intended outcomes.

Port Macquarie-Hastings LEP 2011 Amendment No 41 - Rezone Lot 7 DP 1142473, Reading St, Port Macquarie

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.

Standard Instrument LEP

The principles behind the proposed additional provisions are not inconsistent with the mandatory clauses of the Standard Instrument LEP.

The proposal is considered to be consistent with all relevant SEPPS and s117 Directions except in relation to 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 RU6 Transition to R1 General Residential is currently cleared and provides an asset protection zone (APZ) to Lot 15. A Bushfire Assessment has shown that an adequate APZ is able to be met on the eastern boundaries of the new lots. Whilst the proposal will result in the loss of rural zoned land (approximately 886m²), the area is relatively small and the intentions of the RU6 zoning are able to still be met due to the large size of the proposed residential lots. Any inconsistency with this direction is therefore considered to be of minor significance.

1.5 Rural Lands

This direction applies as the planning proposal will affect land within an existing rural or environmental protection zone and will change the existing minimum lot size (MLS) of such land. Whilst the planning proposal will result in a small loss of rural zoned land (detailed above) the amount of land zoned for environmental purposes will actually increase from 13,761m² to 14,965m² and will lead to greater habitat connectivity. Any inconsistency with this direction is therefore considered to be of minor significance.

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 a small portion of existing E2 zoned land to R1 in lieu of gaining additional E2 zoned land currently zoned R1. This will result in the removal of an 1800m² patch of vegetation to the west of the site. The effect of this is a reduction in habitat available to the subject species in the locality and removal of a number of *Melaleuca biconvexa* plants (refer earlier discussion). Despite this, the ecological assessment that was undertaken concluded that the proposal is not expected to significantly impact any of the known or potentially occurring threatened species on site or in the study. This is because of the the scale of the development, retention of most of the site habitat and the fact that local populations extend beyond the study area. Required ameliorative measures will also help to mitigate any potential impact from the proposed development. Essentially this zone swap will result in a net increase of E2 zoned land of approximately 1200m². The MLS and FSR will also be amended accordingly for the R1 zoned land. Any inconsistency with this direction is considered to be of minor significance due to the overall increase that will occur in land zoned for environmental protection purposes.

2.2 Coastal Protection

This direction applies the subject land is within the 'coastal zone' as defined in the Coastal Protection Act 1979. It is considered however that any inconsistency is of minor significance as the associated development application for a boundary adjustment and subdivision of the subject land will be assessed in accordance with the NSW Coastal Policy and Coastal Design Guidelines.

3.1 Residential Zones

This direction applies as the planning proposal will affect land within an existing residential zone. Any inconsistency with this direction is considered to be of minor significance as the planning proposal is essentially just relocating the R1 zoned land from

the eastern side of the subject land to the western side. In regards to the provision of infrastructure and the protection of the environmental values of the land, this relocation provides a better outcome and will maintain the provisions of this direction.

4.4 Planning for Bushfire Protection

This direction is relevant as the land the subject of the to the proposal is in the majority mapped as Bushfire Prone land. The Direction requires the RPA to consult with the Commissioner of the NSW Rural Fire Service after a gateway determination has been issued. Until this consultation has occurred the consistency of the proposal with the direction remains unresolved.

The planning proposal is otherwise consistent with S117 directions.

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. Similarly the planning proposal will not have any direct adverse effect on the natural, built or socio-economic environment.

The planning proposal has given consideration to social and economic impacts of the proposed amendment. The social and economic impacts will be largely positive and will facilitate the efficient and orderly development of land more suited to residential development.

The application of an E2 zone has been supported by the landowner who has submitted a concurrent subdivision application and proposal to dedicate the residue E2 land to a public authority.

Assessment Process

Proposal type : **Routine** Community Consultation Period : **28 Days**

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

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

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

Port Macquarie-Hastings LEP 2011 Amendment No 41 - Rezone Lot 7 DP 1142473, Reading St, Port Macquarie

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
2016-09-14 PLANNING PROPOSAL PP2015-4.1 LEP Amend 41 Reading St 2016-09-12.pdf	Proposal	Yes
PMHC_Cover Letter_Reading St.pdf	Proposal Covering Letter	Yes
2016-09-14_PMH Council Minutes_Reading St.pdf	Proposal	Yes
Att 4 Eval criteria_completed.pdf	Proposal	Yes

Planning Team Recommendation

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

S.117 directions:

- 1.5 Rural Lands
- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 4.3 Flood Prone Land
- 4.4 Planning for Bushfire Protection
- 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 9 months;
- 4. Prior to exhibition Part 2 of the planning proposal be amended to remove references to the possible need for a savings provisions;
- 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 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, 2.2 and 3.1 are justified in accordance with the terms of the directions;
- 8. That consultation be undertaken with the Office of Environment and Heritage; and
- 9. A written authorisation to exercise delegation be issued to Port Macquarie – Hastings Council.

Supporting Reasons :

The reasons for the recommendation are as follows:

- 1. The proposal will not result in any detrimental impact on critical habitat, threatened species, populations or ecological communities or their habitat;
- 2. The proposal will result greater connectivity to adjoining wildlife corridors;
- 3. The proposal will allow for residential development on land better suited in regards to the provision of infrastructure, avoidance of flooding and connectivity to adjoining residential development;
- 3. The inconsistencies of the proposal with the S117 directions are of minor significance; and
- 4. The proposal is consistent with all relevant local and regional planning strategies and SEPP's.

Port Macquarie-Hastings LEP 2011 Amendment No 41 - Rezone Lot 7 DP 1142473, Reading St, Port Macquarie

Signature:

T. Rennie

Printed Name:

Tommas Rennie

Date:

21 September 2016

