

12 September 2016

Council ref: DD032.2016.00000003.001

General Manager, Northern Region
Department of Planning & Environment
northcoast@planning.nsw.gov.au

Dear Sir

Submission of Planning Proposal for Section 56 Gateway Determination – zoning change, Lot 7 Reading Street, Port Macquarie, in conjunction with associated development application for subdivision

Council has prepared a planning proposal under section 55 of the *Environmental Planning and Assessment Act 1979*, to amend *Port Macquarie-Hastings LEP 2011*. Council now seeks a Gateway determination under section 56 of the Act.

The proposal relates to swapping the location of R1 and E2 zones within Lot 7 DP 1142473 Reading Street, Port Macquarie, providing:

- Improvements in protected environmental lands and corridors, and
- Facilitating creation of 3 residential lots where there are lower environmental impacts, lower development costs, and which is clear of flood affected land.

This site-specific proposal includes details that are best considered in conjunction with a development application. It includes an associated development application for subdivision, and a proposed Voluntary Planning Agreement relating to dedication of a large proportion of the relevant land to Council for environmental conservation purposes.

As such, it is being processed under the provisions of **Division 4B Instrument amendments and development applications** of **Part 3** of the *Environmental Planning and Assessment Act 1979*. It is appropriate to consolidate the information into a single document - this Planning Proposal - for consultation with public authorities and for community consultation. Such circumstances do not seem to have been anticipated by *A guide to preparing planning proposals* (August 2016) - please advise if you would like any changes to how Council will handle this.

In particular, I refer to email discussions relating to the implications of the development application being lodged concurrently, with the most recent being an email dated 6 September 2016 from your Tamara Prentice.

1. Need for Savings provisions

The judgement of *Wingecarribee Shire Council v De Angelis* in the Court of Appeal now means that there is no need for the planning proposal to amend the savings provisions in clause 1.8A of the PMH LEP 2011. However, as a precaution, it is proposed that a savings clause still be included in the amending LEP, as recommended prior to that judgement being released.

2. Timing of determination of the development application

While Division 4B facilitates concurrent processing of LEP amendments and associated development applications, it is assumed that while Council would jointly consider the LEP amendments and the development application following the exhibition, there can be no determination on the development application (irrespective of any savings clause) until notification has been given for the making of the LEP amendment.

Therefore the following is envisaged:

- (a) Post-exhibition there will be a report to Council for consideration of the proposed LEP amendment, the development application, the Voluntary Planning Agreement and any submissions.

Council may make decisions regarding the LEP amendment and the VPA, and may delegate to the General Manager determination of the development application in line with recommendations in the report.

- (b) Only following notification of the making of the LEP amendment, the General Manager (or his sub-delegate) will determine the development application and notice of the determination will be issued.

Any relevant advice on this is appreciated.

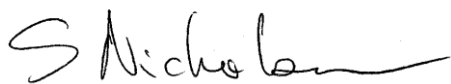
Council seeks to use the delegation of plan-making functions described in the Department's Circular PS16-005. Delegation would be exercised by the General Manager or Director of Development and Environment Services.

Enclosed are copies of:

- The Council resolution to prepare the planning proposal, and the associated report.
- The planning proposal, prepared in accordance with Department's "*A Guide to Preparing Planning Proposals*", with the addition of the Development Application and Voluntary Planning Agreement.
- The Evaluation Criteria for the Delegation of Plan Making Functions.

Should you require further information please do not hesitate to contact the undersigned on telephone number 6581 8529, or email stephen.nicholson@pmhc.nsw.gov.au, quoting Council's reference.

Yours faithfully



Stephen Nicholson
Senior Strategic Planner

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