

Port Macquarie Hastings LEP 2011 - Rainbow Beach Precinct C

Proposal Title : **Port Macquarie Hastings LEP 2011 - Rainbow Beach Precinct C**

Proposal Summary : **This Planning Proposal aims to to rezone land at Rainbow Beach from RU1 Primary Production and R1 General Residential to B2 Local Centre, B4 Mixed Use, R1 General Residential, R3 Medium Density Residential, RE1 Public Recreation, E3 Environmental Management and E2 Environmental Conservation.**

PP Number : **PP_2016_PORTM_003_00** Dop File No : **16/11080**

Proposal Details

Date Planning Proposal Received : **18-Aug-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 : **Ocean Drive**

Suburb : **Bonny Hills** City : Postcode : **2445**

Land Parcel : **Lots 1 and 2 DP1193553, Lot 5 DP25886, Lots 1, 2, 3 and 4 DP1150758, Lot 122 DP1106943**

DoP Planning Officer Contact Details

Contact Name : **Jon Stone**

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RPA Contact Details

Contact Name : **Steve Schwartz**

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DoP Project Manager Contact Details

Contact Name : **Tamara Prentice**

Contact Number : **0266416610**

Contact Email : **tamara.prentice@planning.nsw.gov.au**

Land Release Data

Growth Centre : **N/A** Release Area Name : **Other**

Regional / Sub Regional Strategy : **Mid North Coast Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :		Date of Release :	
Area of Release (Ha) :	0.00	Type of Release (eg Residential / Employment land) :	Employment Land
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	95

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 :	Consultation with the Department's Major Projects team has confirmed that this planning proposal is consistent with the concept plan as proposed under 06_0085 MOD 1 and that they raise no objection to the proposal proceeding.
External Supporting Notes :	This Planning Proposal applies to an area that forms a significant part of Council's Urban Release Area No 14, known as Rainbow Beach. The site is subject to development approvals under the repealed Part 3A of the Environmental Planning and Assessment Act 1979. This proposal sets out zoning and other changes to development controls to reflect the Part 3A approvals.

Adequacy Assessment

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

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

Comment : **The Planning Proposal states the objectives of the proposed changes to the LEP. However, in the Background section of the Proposal, it fails to detail that part of the land will also be zoned B4 Mixed Use as shown in the maps within the Planning Proposal. Council staff have confirmed this is a typographical error and will be corrected prior to public exhibition.**

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

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

Comment : **The amendments proposed to Port Macquarie Hastings LEP 2011 are adequately described in the Planning Proposal.**

Justification - s55 (2)(c)

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

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

- 2.1 Environment Protection Zones
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 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

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 26—Littoral Rainforests
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Infrastructure) 2007
SEPP (Major Projects) 2005
SEPP (Rural Lands) 2008**

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 : **An assessment of the consistency of this Planning Proposal with the S117 Directions and SEPPs is addressed later in this report.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment :

Mapping has been provided in the Planning Proposal to illustrate the proposed amendments. These are considered adequate subject to the following changes being made to the proposed maps prior to exhibition which Council staff have confirmed are mapping errors:

- 40ha minimum lot size is to be applied to all land proposed to be zoned E3 Environmental Management;
- no height of building standard is to be applied to land proposed to be zoned E3 Environmental Management; and
- no floor space ratio standard is to be applied to land proposed to be zoned E3 Environmental Management.

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 :

The Planning Proposal identifies that it is a low impact proposal because it is consistent with the pattern of surrounding land use zones and land uses and is consistent with the strategic planning framework for the site. It also indicates that the Planning Proposal will be exhibited concurrently with a draft Development Control Plan for a 28 day period.

The proposed 28 day public exhibition period is considered satisfactory.

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 has requested an authorisation to exercise its plan making delegations. As the Planning Proposal deals with matters of only local significance, it is considered appropriate that an authorisation to exercise 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 2017. A 12 month time frame is considered appropriate.

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation
to Principal LEP :

The Port Macquarie Hastings LEP 2011 was made in February 2011.

Assessment Criteria

Need for planning
proposal :

The subject site has been identified as a growth area for the Port Macquarie Hasting LGA. The Mid North Coast Regional Strategy and the draft North Coast Regional Plan both identify the land as being within an urban growth area. In 2012 a Concept Plan and Project Approval was granted under Part 3A of the Environmental Planning and Assessment Act 1979. This Part of the Act has since been repealed but the approvals remain valid.

The Concept Plan approved the future land uses within the site including the limits of residential subdivision, the location of the intersections with Ocean Drive, the location of future school sites, the general location of the 'Bonny Hills Village Centre', the delineation of Lot 5, DP 25886 (a strip of land behind the coastal dune) and the delineation of the central corridor (environmental zoned land).

The Project Approval (issued at the same time as the Concept Plan) granted consent for Stage 1 works including the construction of a 75.2ha central corridor creating 8 recreational/environmental precincts which include environmental restoration works, landscaping, sporting fields, children's play areas, link bridges and walkways, cycleway, picnic area and the establishment of a 14.1ha constructed wetland system. It also included significant excavation works, filling of low-lying areas for future development and formalising an access way on Crown land to allow access to Rainbow Beach.

This Planning Proposal aims to rezone the land to reflect the approvals that have been

granted under the repealed Part 3A.

The subject site is currently zoned RU1 Primary Production and R1 General Residential under the Port Macquarie Hastings LEP 2011. This Planning Proposal seeks to amend the LEP to rezone the land to a combination of B2 Local Centre, B4 Mixed Use, R1 General Residential, R3 Medium Density Residential, RE1 Public Recreation, E3 Environmental Management and E2 Environmental Conservation. It also proposes to amend various development controls that apply to the site including minimum lot size provisions, height of buildings, floor space ratio and acoustic control provisions. Maps showing the proposed changes are shown within the Planning Proposal.

There will be an overall reduction in the amount of land zoned R1 General Residential. The site has an area of 177.4ha, of which approximately 20ha is zoned RU1 Primary Production, the remainder being R1 General Residential. The proposed rezonings will result in approximately 70ha of residential land (R1 and R3), 86ha of open space, drainage and habitat corridors (E2, E3 and RE1), 5ha of village centre (B2 and B4) and 15ha for two school sites (R1).

Consistency with
strategic planning
framework :

REGIONAL STRATEGIES

The Planning Proposal is consistent with the Mid North Coast Regional Strategy. In particular, the Proposal adopts the Neighbourhood Planning Principles by providing a range of land uses to provide a mix of housing, employment, open space, conservation land and recreational space. It is also consistent with the Growth Area Planning shown in the Strategy as the land is within the growth area boundaries shown in Map 7 of the Strategy.

The exhibited draft North Coast Regional Plan is also applicable. The proposal is consistent with the draft Regional Plan which identifies the site as an urban growth area.

LOCAL STRATEGIES

Council's Urban Growth Management Strategy 2010 – 2031 identifies the site as one of the major development areas in the Shire. Identified as Area 14, the Growth Management Strategy envisages the area will evolve into a larger urban settlement, with a clearly defined new town centre between Lake Cathie and Bonny Hills, including community facilities, a primary school, playing fields and a passive open space network linked to Rainbow Beach. The Planning Proposal introduces appropriate zones to facilitate the future growth in this area in accordance with the Urban Growth Management Strategy 2010 – 2031 that was approved by the former Director General in May 2011.

STATE ENVIRONMENTAL PLANNING POLICIES

The Planning Proposal states that no SEPPs prevent the proposal from progressing. It is considered that the following SEPPs apply to this proposal.

SEPP No 26—Littoral Rainforests
SEPP No 44—Koala Habitat Protection
SEPP No 55—Remediation of Land
SEPP No 71—Coastal Protection
SEPP (Infrastructure) 2007
SEPP (Major Projects) 2005
SEPP (Rural Lands) 2008

During the assessment of the Concept Plan and Project Approval in 2012, all applicable SEPPs were considered. It is considered that the proposal to rezone the land and apply development controls is not contrary to the provisions of the SEPPs.

SECTION 117 DIRECTIONS

A number of S117 Directions apply to this Planning Proposal. The proposal is considered to be consistent with all relevant s117 Directions except in relation to the following:

1.5 Rural Lands

The proposal is inconsistent with this Direction as it is unable to comply with all of the rural planning and subdivision principles as it seeks to rezone land from RU1 Primary Production to E3 Environmental Management. This inconsistency is considered to be of minor significance as the proposal is consistent with the outcomes of the Part 3A assessment process which identified the environmental values of the land to be rezoned.

4.1 Acid Sulfate Soils

The Proposal is inconsistent with this Direction of the site contains Class 4 and 5 acid sulfate soils and an acid sulfate soils study has not yet been prepared. This inconsistency is considered to be of minor significance as this matter can be adequately addressed at development application stage, Port Macquarie-Hastings LEP 2011 contains appropriate provisions requiring the consideration of acid sulfate soils at the development stage, and the land to be developed in the future is already zoned for urban purposes.

4.4 Planning for Bushfire Protection

This Direction is relevant as the Planning Proposal will affect land that is identified 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

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consultation has occurred the consistency of the proposal with the Direction remains unresolved.

Environmental social
economic impacts :

The proposed changes reflect the project and concept plans approved under Part 3A of the Environmental Planning and Assessment Act 1979 in 2012. The assessment of environmental impacts and proposed mitigation measures were dealt with as part of these approvals and the potential impacts of the proposed development have been addressed via the proponent's statement of commitments and the conditions of approval. Council has also advised that planning agreements are in place regarding the establishment and maintenance of environmental lands.

It is considered that the proposed changes will also result in positive social and economic impacts for the area. The social and economic impacts were considered as part of the Part 3A approvals. It is considered that the proposed residential development will become a significant economic driver for the growing Port Macquarie-Hastings area, while the village centre will help deliver important services and economic opportunities for local residents.

Assessment Process

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

Timeframe to make **12 months** Delegation : **RPA**
LEP :

Public Authority **Department of Education and Communities**
Consultation - 56(2)(d) **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 ? **No**

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 :

Part 3A

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

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
2016-08-18 Cover Letter.pdf	Proposal Covering Letter	Yes
2016-08-18 Planning proposal Amendment 36 Rainbow Beach.pdf	Proposal	Yes

2016-08-18 Ordinary Council Meeting Report.pdf	Proposal	Yes
2016-08-18 Ordinary Council Meeting Minutes.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
- 2.2 Coastal Protection
- 2.3 Heritage Conservation
- 2.4 Recreation Vehicle Areas
- 3.1 Residential Zones
- 3.2 Caravan Parks and Manufactured Home Estates
- 3.3 Home Occupations
- 3.4 Integrating Land Use and Transport
- 4.1 Acid Sulfate Soils
- 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

Additional Information : It is recommended that:

1. The Planning Proposal be supported.
2. Prior to public exhibition, the planning proposal shall be amended to:
 - a. include reference to part of the land being rezoned to B4 Mixed Use in the Background and anywhere else as required to be consistent with Part 4 of the proposal;
 - b. rectify the following mapping errors:
 - 40ha minimum lot size is to be applied to all land proposed to be zoned E3 Environmental Management;
 - no height of building standard is to be applied to land proposed to be zoned E3 Environmental Management; and
 - no floor space ratio standard is to be applied to land proposed to be zoned E3 Environmental Management.
3. Community consultation is required under sections 56(2)(c) and 57 of the Act as follows:
 - a. the planning proposal must be made publicly available for a minimum of 28 days; and
 - b. the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of A Guide to Preparing LEPs (Department of Planning and Infrastructure 2013).
4. Consultation is required with the following public authorities under section 56(2)(d) of the Act and/or to comply with the requirements of relevant S117 Directions:
 - Office of Environment and Heritage
 - NSW Rural Fire Service
 - NSW Roads and Maritime Service
 - Crown Lands
 - Department of Education and Training

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal.
5. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the Act. This does not discharge Council from any obligation it may

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otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The timeframe for completing the LEP is to be 12 months from the week following the date of the Gateway determination.

7. That the Secretary's delegate determine that the inconsistencies with s117 Directions 1.5 Rural Lands and 4.1 Acid Sulfate Soils are justified for the reasons set out above.

8. The Secretary's delegate note the outstanding inconsistency of the proposal with s117 Direction 4.4 Planning for Bushfire Protection.

9. That a written authorisation to exercise plan making delegations be issued Council.

Supporting Reasons :

The proposal is supported as it rezones land and applies development controls in accordance with a Concept Plan and Project Approval under Part 3A of the Act in 2012 and is consistent with local and regional strategic planning for the area.

Signature:



Printed Name:

Craig Diss

Date:

2/9/16