

Port Macquarie - Hastings LEP 2011 – Rezoning of land at Homedale Road, Kew

Proposal Title : **Port Macquarie - Hastings LEP 2011 – Rezoning of land at Homedale Road, Kew**

Proposal Summary : **The planning proposal seeks to amend Port Macquarie – Hastings LEP 2011 by rezoning Lot 202 DP 1133171 and the adjoining Crown road reserve, Homedale Road, Kew to part R1 General Residential, part E2 Environmental Conservation and part E3 Environmental Management. A 450m2 minimum lot size, 8.5m maximum building height and 0.65:1 Floor Space Ratio are also proposed for the land being rezoned R1 consistent with the adjoining residential land.**

PP Number : **PP_2017_PORTM_002_00**

Dop File No :

17/03590

Proposal Details

Date Planning
Proposal Received : **24-Feb-2017**

LGA covered : **Port Macquarie-Hastings**

Region : **Northern**

RPA : **Port Macquarie-Hastings Council**

State Electorate : **PORT MACQUARIE**

Section of the Act : **55 - Planning Proposal**

LEP Type : **Spot Rezoning**

Location Details

Street : **Kendall Road**

Suburb : **Kew**

City :

Postcode : **2439**

Land Parcel : **Lot 202 DP 1133171 and adjoining Crown road reserve**

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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Land Release Data

Growth Centre :		Release Area Name :	
Regional / Sub Regional Strategy :	Mid North Coast Regional Strategy	Consistent with Strategy :	Yes
MDP Number :		Date of Release :	
Area of Release (Ha) :	5.70	Type of Release (eg Residential / Employment land) :	Residential
No. of Lots :	0	No. of Dwellings (where relevant) :	45
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Lobbyists Code of Conduct has been complied with : **Yes**

If No, comment :

Have there been meetings or communications with registered lobbyists? : **No**

If Yes, comment :

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 intention of the planning proposal.**

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

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

Comment : **The explanation of provisions adequately addresses the intended method of achieving the objectives of the planning proposal. The proposal intends to amend the Land Zoning Map, Lot Size Map, Height of Buildings Map, and Floor Space Ratio map to apply appropriate zones and other planning controls to the land.**

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

1.2 Rural Zones

1.5 Rural Lands

2.1 Environment Protection Zones

2.3 Heritage Conservation

3.1 Residential Zones

3.3 Home Occupations
3.4 Integrating Land Use and Transport
4.1 Acid Sulfate Soils
4.3 Flood Prone Land
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
6.1 Approval and Referral Requirements

Is the Director General's agreement required? **No**

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
SEPP (Infrastructure) 2007
SEPP (Rural Lands) 2008**

e) List any other **Draft North Coast Regional Plan**
matters that need to
be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **No**

If No, explain : **Refer to discussion below regarding applicable SEPPs and s117 Directions.**

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : **The mapping included in the proposal is considered satisfactory for exhibition purposes. Mapping prepared in accordance with the Department's technical guidelines will need to be prepared to support the legal drafting of the final amendment should it proceed.**

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : **The land is not identified as an urban growth area in the Port Macquarie - Hastings Urban Growth Management Strategy 2011-2031 or the Mid North Coast Regional Strategy, 2006. While the proposal is still able to proceed in accordance with the provisions of these strategies, it considered appropriate that a community consultation period of 28 days is therefore undertaken and that affected and adjoining properties should be notified in writing.**

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 :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Port Macquarie – Hastings LEP 2011 is in force. This planning proposal seeks an amendment to the Port Macquarie – Hastings LEP 2011.**

Assessment Criteria

Need for planning proposal :

The owners of the subject land have initiated a planning proposal for the rezoning of Lot 202 DP 1133171 and the adjoining Crown road reserve, Homedale Road, Kew as an extension of the existing residential subdivision immediately to the east of the site.

The subject land is approximately 9.3 hectares in size with the unformed Crown road reserve along the western boundary. The land is currently partially zoned R1 General Residential in a narrow strip along the eastern boundary, and the residue is zoned RU1 Primary Production and consists of steeply sloping grassland to a creek and remnant native vegetation at the south-western corner. The proposal involves extending the R1 zone over 5.7ha of the site with E2 and E3 zones proposed for areas subject to various environmental and heritage constraints.

Currently no dwelling or agricultural infrastructure exist on the site. In addition to the current RU1 zoning, there is a 40 hectare minimum lot size (MLS) and no maximum building height. The existing area zoned R1 on the lot has an 8.5m building height, 450m² minimum lot size and 0.65:1 floor space ratio.

The other land uses in the general vicinity of the site include primary production to the south and west, residential to the east, and a classified road and golf course to the north. The town of Kendall is approximately 600m to the west, over the Haven River and the town of Kew is less than 300m to the east. The property immediately to the south of the subject site is zoned RU1, however the Port Macquarie – Hastings LEP 2011 permits additional uses on the site of a residential development of up to 66 lots/dwellings. This land to the south is also identified as proposed future urban release area in the Mid North Coast Regional Strategy.

The area identified for rezoning to R1 is largely flood free, does not contain acid sulphate soils and does not contain threatened flora or fauna. There is an Endangered Ecological Community and important aboriginal cultural site in the south western corner however these will be preserved through the provision of an E2 zoning over these areas

The site adjoins a large area of Regionally Significant Farmland to the west, with approximately 1.78ha contained within the subject site in a band along the western boundary. An agricultural land use assessment has been provided in support of the proposal. It highlights that, due to the largely incompatible land uses, small lot size, lack of agricultural infrastructure and dominance of weed species and poor quality soils, it is economically nor environmentally sustainable to use the land for primary production purposes. The report also demonstrates that the loss of the land currently zoned RU1, including the mapping Regionally Significant Farmland, would have no significant impact on the agricultural production value of the region. The majority of this regionally significant farmland is proposed to be located in the future E2 and E3 Zones due to the environmental and heritage constraints that affect the land.

The planning proposal seeks to:

- Rezone part of Lot 202 DP 1133171, Homedale Road, Kew from RU1 to R1, E2 and E3;
- Apply a 450m² minimum lot size (MLS) to the area proposed to be zoned R1;
- Apply a 8.5m maximum building height to the area proposed to be zoned R1;
- Apply a 0.65:1 floor space ratio (FSR) to the area proposed to be zoned R1;
- The MLS, building height and FSR maps would not change for the areas proposed to be zoned E2 and E3.

The proposal to rezone the land is the best means of achieving the intent of the proposal which is to enable part of Lot 202 DP 1133171 to be developed for residential purposes.

Consistency with strategic planning framework :

Mid North Coast Regional Strategy (MNCRS).

The subject site is not identified as a future urban development in the MNCRS. However, as it is located outside the Coastal Area, the sustainability criteria outlined in Appendix 1 can be utilised to facilitate the proposal. The proposal must satisfy various requirements relating to the provision of infrastructure, access, housing diversity, employment lands, avoidance of risk, natural resources, environmental protection and quality and equity in services.

The proposal has demonstrated that connection to public utilities is feasible, however it is noted that Council intends to consult with Telstra and Essential Energy further post-Gateway determination. Due to the regional location of the subject site, accessible transport options are limited, however the proposal has satisfactorily addressed this criteria. The proposal is likely to promote housing choice and support the provision of affordable housing in the locality. The land proposed to be zoned R1 is largely in areas not impacted by natural hazards or major constraints, with E Zonings proposed for areas subject to flooding, acid sulfate soils, Aboriginal cultural significance and endangered ecological communities. A secondary benefit of the proposed E zoning on part of the site is to provide a buffer to the Regionally Significant Farmland to the west. A bulk storage business operates directly to the west of the subject site. There is potential for future land use conflict with this existing use which has not been addressed in the Planning Proposal. A Noise Impact Assessment must adequately address this issue and identify mitigation measures as required prior to public exhibition. The proposal is considered to have adequately addressed the sustainability criteria outlined in Appendix 1 of the Strategy.

Draft North Coast Regional Plan

The exhibited draft North Coast Regional Growth Plan is applicable. The proposal is consistent with the draft Regional Growth Plan as it will contribute towards providing sufficient housing supply to meet the demands of the growing North Coast population. This development can be considered a minor variation to the mapped urban growth area consistent with the provisions of the draft Plan. It is also considered to be consistent with the interim regionally significant farmland variation criteria contained in the draft plan.

Consistency with Council's Local Strategies.

Port Macquarie – Hastings Urban Growth Management Strategy 2011-2031 (the 'UGMS')

Council's Urban Growth Management Strategy 2011 – 2031 identifies that Council will continue to investigate opportunities for infill development across the LGA. The subject site is not identified for release but can be considered infill and consistent with the principles of the Growth Management Strategy.

SEPPs

The proposal lists the State environmental planning policies (SEPPs) applicable to the land. The proposal is consistent with these SEPPs except in relation to the following:

SEPP (Rural Lands) 2008

SEPP Rural Lands (the RLSEPP) contains Rural Planning Principles to guide development on rural land. It is considered the proposal is inconsistent with some of the Rural Planning Principles as it seeks to rezone land from rural to residential. However the Agricultural Land Use Assessment report submitted with the Planning Proposal identifies that the land is not economically sustainable and that the proposed E zones will facilitate the recognition and protection of native fauna and avoid developing constrained land.

The proposal is otherwise consistent with State environmental planning policies.

S117 Directions.

The following S117 directions are applicable to the proposal, 1.2 Rural Zones, 1.5 Rural

Lands, 2.1 Environmental Protection Zones, 2.3 Heritage Conservation, 3.1 Residential Zones, 3.3 Home Occupations, 3.4 Integrating Land Use and Transport, 4.1 Acid Sulfate Soils, 4.3 Flood Prone Land, 4.4 Planning for Bushfire Protection, 5.1 Implementation of Regional Strategies, 6.1 Approval and Referral Requirements.

Of the above s117 Directions the proposal is considered to be inconsistent with Direction 1.2, 1.5, 2.3, 3.1, 4.3 and 4.4.

Direction 1.2 Rural Zones is relevant to the proposal. The direction provides that a planning proposal must not rezone land from a rural to a residential zone. The planning proposal seeks to rezone part of the subject land from RU1 Primary Production to R1 General Residential. The direction provides that the planning proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a strategy or study or is of minor significance.

The planning proposal is supported by an Agricultural Land Use Assessment which identifies that the lot size, soil quality and current vegetation type restrict the economic sustainability of primary production on the subject land. It also identifies that rezoning the land will have no significant impact on agriculture in the region. The consistency is considered of minor significance.

Direction 1.5 Rural Lands is relevant to the planning proposal. It is considered the proposal is inconsistent with the Rural Planning Principles. However the Agricultural Land Use Assessment report submitted with the Planning Proposal identifies that the land is not economically sustainable and that the proposed E zones will facilitate the recognition and protection of native fauna and avoid developing constrained land. The consistency is considered of minor significance.

Direction 2.3 Heritage Conservation is relevant to the planning proposal. The direction provides that a planning proposal must contain provisions which facilitate the conservation of items and places of heritage significance. The proposal indicates that preliminary investigations into Aboriginal heritage have identified a site of significance that will be zoned E2 and that further consultation with the NSW Aboriginal Land Council, local land council and OEHL will be undertaken. It is therefore considered that any inconsistency of the proposal with this direction cannot be resolved until this consultation has been completed.

Direction 3.1 Residential Zones is relevant to the planning proposal. The direction provides that a planning proposal must include provisions that encourage the provision of housing that will reduce the consumption of land for housing and associated urban development on the urban fringe. The subject site is on the periphery of the Kew town centre and represents the urban fringe. The direction provides that the planning proposal may be inconsistent with the terms of the direction if the inconsistency is justified by a strategy or study or is of minor significance.

The land use to the east is residential and the proposed Planning Proposal seeks to extend the existing residential into the largely unconstrained areas of the subject site. To the south of the subject site is a permitted additional use for a 66 lot subdivision, to the north is an existing golf course. Given that this will provide additional housing to a small regional centre and not impact the structure or geographical centre of the town it is considered of minor significance.

Direction 4.3 Flood Prone Land is relevant to the proposal. The proposal is inconsistent with this Direction as it will permit a minor increase in the development potential of flood prone land. This inconsistency is considered to be of minor significance as only a small number of proposed residential lots will be affected by flooding, with adequate flood free land available on the lots for a dwelling. Consultation will be required with the NSW Office of Environment and Heritage.

Direction 4.4 Planning for Bushfire Protection is relevant to the proposal. Areas of the subject land are identified as being bush fire prone. The direction provides that the RPA

must consult with the Commissioner of the NSW Rural Fire Service, and the draft plan must include provisions relating to bushfire control. Consultation with the RFS is required after a Gateway Determination is issued and before public exhibition and until this consultation has occurred the inconsistency of the proposal with the direction remains unresolved.

The proposal is otherwise consistent with S117 Directions.

Environmental social
economic impacts :

A Preliminary Vegetation Assessment Report has been undertaken for the subject land. It involved an assessment of the composition and ecological value of the remnant vegetation on the site. There is a small area of riparian vegetation that has been identified as an Endangered Ecological Community (EEC) in the south western corner of the site. In areas proposed to be zoned R1 the remnant vegetation is characterised by weed species with limited ecological value. No threatened flora or fauna species were identified. The area containing the (EEC) is proposed for conservation through the provision of an E2 Environmental Conservation zoning. This is considered appropriate.

Reporting submitted in support of the proposal identifies that although preferred Koala feed trees are evident on the subject site, they are not in an abundance to be classified as potential Koala habitat and it is unlikely that Koalas inhabit the site.

The site adjoins a large area of Regionally Significant Farmland to the west, with approximately 1.78ha contained within the subject site in a band along the western boundary. An agricultural land use assessment has been provided in support of the proposal which highlights that it is economically nor environmentally sustainable to use the land for primary production purposes. The report also demonstrates that the loss of the land would have no significant impact on the agricultural production value of the region.

The western edge of the site is identified as flood prone and this extends into the areas proposed to be zoned R1. However due to the sloping nature of the allotment, future subdivided lots will have sufficient area to locate a dwelling outside areas identified as flood prone. Similarly acid sulfate soils are present in the south western corner of the site, this area is not proposed to zoned residential and no adverse impacts are expected.

Parts of the site are bush fire prone, a bushfire hazard assessment should be prepared for the site prior to consultation to identify any issues that may impact on the proposed lot layout.

The proposal identifies that the rezoning will result in an estimated 45 additional lots. While no adverse traffic impact is anticipated, it is considered appropriate that comment from RMS be sought on the proposal.

The proposal will have a positive economic and social impact through the release of land for residential development. The land is located within 500m of a village and services to ensure residents can connect to existing social and community services.

Assessment Process

Proposal type :	Minor	Community Consultation Period :	28 Days
Timeframe to make LEP :	12 months	Delegation :	RPA
Public Authority Consultation - 56(2)(d) :	NSW Aboriginal Land Council Office of Environment and Heritage NSW Department of Primary Industries - Agriculture NSW Rural Fire Service Transport for NSW - Roads and Maritime Services Other		

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Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **Other referrals:**

- a. The Local Aboriginal Land Council;
- b. Department of Industry - Lands

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

If Yes, reasons :

Identify any additional studies, if required. :

Heritage

Other - provide details below

If Other, provide reasons :

Noise Assessment Report

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 :

Documents

Document File Name	DocumentType Name	Is Public
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Planning Team Recommendation

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

- S.117 directions:
- 1.2 Rural Zones
 - 1.5 Rural Lands
 - 2.1 Environment Protection Zones
 - 2.3 Heritage Conservation
 - 3.1 Residential Zones
 - 3.3 Home Occupations
 - 3.4 Integrating Land Use and Transport
 - 4.1 Acid Sulfate Soils
 - 4.3 Flood Prone Land
 - 4.4 Planning for Bushfire Protection
 - 5.1 Implementation of Regional Strategies
 - 6.1 Approval and Referral Requirements

- Additional Information :
- It is recommended that the planning proposal should proceed subject to the following;
- 1. The planning proposal proceed as a 'routine' planning proposal.
 - 2. Prior to community consultation the following site investigations are to be undertaken and placed on public exhibition with the planning proposal:
 - a. A noise assessment report addressing traffic noise from Kendall Rd and the the adjacent rural industry.
 - b. A bushfire assessment
 - 3. Prior to community consultation the planning proposal is to be amended as follows:
 - a. To incorporate any necessary changes to the proposal arising from the additional site investigations or consultation with State agencies or organisations.
 - 4. A community consultation period of 28 days is necessary.
 - 5. The planning proposal is to be completed within 12 months.
 - 6. The RPA is to consult with the following State agencies and organisations;

- a. NSW Rural Fire Service;
- b. NSW Department of Primary Industries - Agriculture;
- c. NSW Office of Environment and Heritage;
- d. Roads and Maritime Services
- e. The Local Aboriginal Land Council;
- f. NSW Aboriginal Land Council;
- g. Department of Industry - Lands
7. A written authorisation to exercise delegation be issued to Port Macquarie - Hastings Council.
8. A delegate of the Secretary agree that the inconsistency of the proposal with S117 Directions 1.2, 1.5, 3.1, and 4.3 are justified in accordance with the terms of the direction.
9. The Secretary's delegate note the unresolved consistency with S117 Directions 2.3 and 4.4.

Supporting Reasons :

The reasons for the recommendation are as follows;

1. The proposal will contribute to the identified demand for R1 zoned land in the Port Macquarie - Hastings LGA which is identified in the Port Macquarie - Hastings Growth Management Strategy 2011-2031.
2. The land proposed to be zoned residential is relatively unconstrained and the existing agricultural land has been identified as economically and environmentally unsustainable.
3. The proposal is inconsistent with the strategic planning framework, however the inconsistencies are considered to be of minor significance.

Signature:



Printed Name:

Craig D'Sa

Date:

13/3/17

