
12.07 PLANNING PROPOSAL - 2017 ADMINISTRATIVE REVIEW OF PORT MACQUARIE-HASTINGS LEP 2011

RESOLVED: Hawkins/Alley

That Council:

1. Prepare a Planning Proposal pursuant to section 55 of the Environmental Planning and Assessment Act 1979, for the amendment of provisions of Port Macquarie-Hastings Local Environmental Plan 2011, in relation to the 6 Issues as generally described in this report.
2. Forward the Planning Proposal to the NSW Department of Planning and Environment requesting a Gateway Determination pursuant to section 56 of the Environmental Planning and Assessment Act 1979.
3. Request that the Secretary of the Department of Planning & Environment issue a Written Authorisation to Council to Exercise Delegation of the plan making functions under section 59 of the Act in respect of the Planning Proposal.

CARRIED: 8/0

FOR: Alley, Cusato, Dixon, Griffiths, Hawkins, Intemann, Levido and Turner

AGAINST: Nil

12.08 PLANNING PROPOSAL ADMINISTRATIVE REVIEW - PORT MACQUARIE-HASTINGS LEP 2011 (AMENDMENT NO 29) - CONSIDERATION OF SUBMISSIONS

RESOLVED: Alley/Hawkins

That Council:

1. Take the necessary steps under sections 58 and 59 of the Environmental Planning and Assessment Act 1979 to finalise Port Macquarie-Hastings Local Environmental Plan 2011 (Amendment No 29) as attached.
2. Thank in writing all those who made a submission for their contribution and provide information on Council's decision on the matter.

CARRIED: 8/0

FOR: Alley, Cusato, Dixon, Griffiths, Hawkins, Intemann, Levido and Turner

AGAINST: Nil

Item: 12.07

Subject: PLANNING PROPOSAL - 2017 ADMINISTRATIVE REVIEW OF
PORT MACQUARIE-HASTINGS LEP 2011

Presented by: Strategy and Growth, Jeffery Sharp

Alignment with Delivery Program

4.5.1 Carry out strategic planning to manage population growth and provide for co-ordinated urban development.

RECOMMENDATION

That Council:

1. Prepare a Planning Proposal pursuant to section 55 of the Environmental Planning and Assessment Act 1979, for the amendment of provisions of Port Macquarie-Hastings Local Environmental Plan 2011, in relation to the 6 Issues as generally described in this report.
2. Forward the Planning Proposal to the NSW Department of Planning and Environment requesting a Gateway Determination pursuant to section 56 of the Environmental Planning and Assessment Act 1979.
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Executive Summary

Council continually monitors the operation of *Port Macquarie-Hastings Local Environmental Plan 2011* [LEP] to identify necessary refinements and adjustments to the LEP text and maps. This report considers a number of proposed administrative refinements to *Port Macquarie-Hastings Local Environmental Plan 2011*.

The issues are:

1. Land Use Table Zone - Industrial retail outlets - align with permissibilities of Industry and Rural industry
2. Clause 4.1 Minimum subdivision lot size - battle-axe lots provision
3. 14 Misty Vale Way, Hollisdale - minimum lot size
4. Bain Park, Wauchope - correct zone boundary
5. Limeburners Creek Nature Reserve and Council acquisitions, North Shore - update Land Reservation Acquisition Map
6. 24 Yaluma Drive, Port Macquarie – rezoning from E3 Environmental Management to R1 General Residential, and associated changes to other map series.

This report contains more detail on each of the proposed administrative amendments and recommends that Council prepare a Planning Proposal and forward to the Department of Planning and Environment requesting a Gateway Determination.

Discussion

Details of the proposed amendments are provided below.

1. Land Use Table Zone - Industrial retail outlets

An **Industrial retail outlet** is defined as

... a building or place that:

- (a) is used in conjunction with an industry or rural industry, and
 - (b) is situated on the land on which the industry or rural industry is located, and
 - (c) is used for the display or sale (whether by retail or wholesale) of only those goods that have been manufactured on the land on which the industry or rural industry is located,
- but does not include a warehouse or distribution centre.

In LEP clause 5.4, the retail floor area is restricted to the lesser of:

- (a) 43% of the gross floor area of the industry or rural industry located on the same land as the retail outlet, or
- (b) 400 square metres.

At present, the permissibility of the land uses for relevant zones is:

Relevant Zones	Industry			Rural industry	Industrial retail outlet
	General	Heavy	Light		
RU1 Primary Production	N	N	N	Y	N
RU2 Rural Landscape	N	N	N	Y	N
RU5 Village	N	N	Y	N	N
B1 Neighbourhood Centre	N	N	N	N	N
B2 Local Centre	N	N	N	N	Y
B3 Commercial Core	N	N	N	N	N
B4 Mixed Use	N	N	Y/N	N	Y
B5 Business Development	N	N	Y	N	Y
B7 Business Park	N	N	Y	N	N
IN1 General Industrial	Y	N	Y	Y	Y
IN2 Light Industrial	N	N	Y	Y	Y
IN3 Heavy Industrial	Y	Y	N	N	N
IN4 Working Waterfront	Y	N	Y	N	N

If an industrial retail outlet is linked with an industry or rural industry, then it is appropriate to align their permissibility in the Land Use Table. It is therefore appropriate to make industrial retail outlets also permissible with consent within Zone

Nos RU1, RU2, RU5, B7, IN3 and IN4, which all permit either Industry or Rural Industry with consent.

In each of these zones, the suitability of any proposed Industrial Retail Outlet would be assessed as part of a development application and would only be considered “in conjunction with” an industry or rural industry, consistent with the definition of Industrial Retail Outlet.

Conversely, there seems no reason to make them permissible in Zone B2 Local Centre, which has a retail focus and does not permit either Industry or Rural Industry with consent. It is therefore proposed to prohibit industrial retail outlets within Zone No. B2.

Proposal: That the Land Use Table be amended in relation to industrial retail outlets:

- (a) to be permissible with consent in Zones RU1 Primary Production, RU2 Rural Landscape, RU5 Village, B7 Business Park, IN3 Heavy Industry and IN4 Working Waterfront,
- (b) to be prohibited in Zone B2 Local Centre.

2. Clause 4.1 Minimum subdivision lot size - battle-axe lots provision

The Standard Instrument clause does not alter the minimum lot size requirement where the lot relies on a 'battle-axe' access. Potentially consent could be sought for a lot which meets the required minimum even though the usable area is far smaller than expected. While it may not be necessary to provide the usual front setback, it is appropriate to ensure the enclosed lot contains adequate site area.

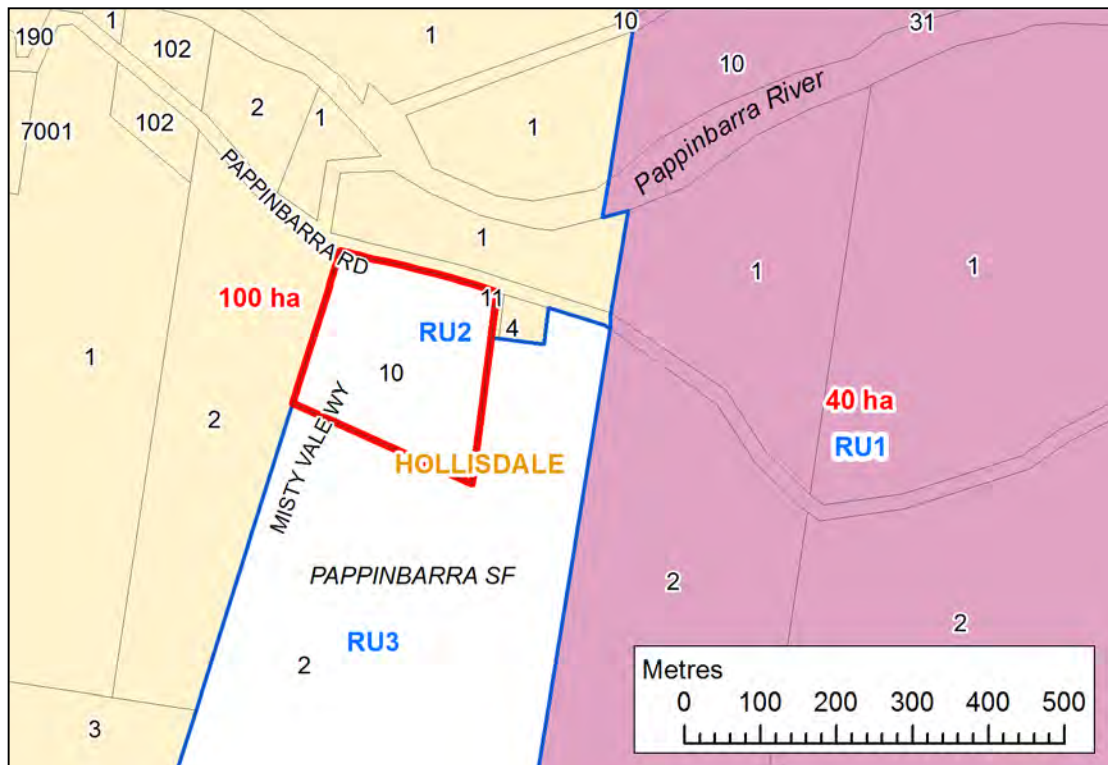
It is proposed to add a requirement found in the LEPs of some other Councils.

Proposal: That clause 4.1 be amended by adding the following:

- (4A) If a lot is a battle-axe lot or other lot with an access handle, the area of the access handle is not to be included when calculating the size of the lot for the purposes of this clause.

3. 14 Misty Vale Way, Hollisdale - minimum lot size

The relevant parcel, Lot 10 DP 1006795 (as outlined red on the map below), was previously within a State Forest, but is now privately owned and is zoned RU2 Rural Landscape. The Lot Size Map does not apply a minimum lot size on this parcel. It is 4.9 ha within an area where a 100 ha minimum applies to adjoining land.



Immediately to the east fronting Pappinbarra Road are the Hollisdales Rural Fire Service shed and the Hollisdales Hall.

Proposal: That the Lot Size Map be amended for Lot 1 DP 1006795, 14 Misty Vale Way, Hollisdales, by applying a minimum lot size of 100 ha.

4. Bain Park, Wauchope - Correct zone boundary

There are anomalies with the zoning of the northern portion of Bain Park, as shown on the map below. The red outline and text identifies the proposed changes, involving Zones B2 Local Centre and RE1 Public Recreation. The area labelled RE1 is currently zoned B2, and the footpath area labelled B2 is currently zoned RE1.

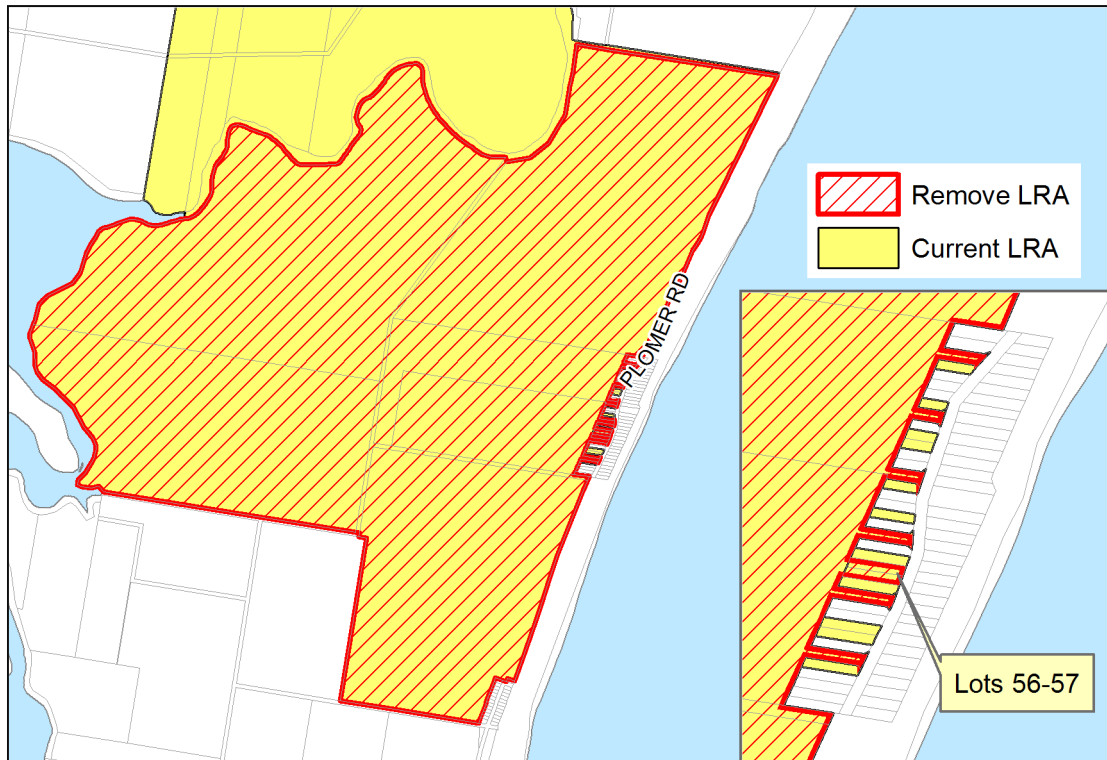


The Floor Space Ratio Map requires associated changes being 1:5:1 (code S1) for the proposed Zone B2 and no FSR for the proposed Zone RE1.

Proposal: That the Land Zoning Map and the Floor Space Ratio Map be amended as described for Bain Park, High Street, Wauchope.

5. Limeburners Creek National Park and Council acquisitions, North Shore

Recently the NSW National Parks and Wildlife Service purchased an area identified for acquisition on the LEP 2011 Land Reservation Acquisition Map. This land is to be added to Limeburners Creek Nature Reserve. It is appropriate that the designation for acquisition be removed. In addition, Council has recently acquired 2 lots in the adjoining Queens Grant subdivision - it would be appropriate to also remove the acquisition designation for these lots. The relevant lands are shown on the map below.



This leaves 11 lots in the Queens Grant subdivision designated for future acquisition by Council. (This was considered by Council at its 20 July 2016 meeting.)

Note that the label on the Land Reservation Acquisition Map refers to the reservation purpose and the current land use zone code, while the associated text in clause 5.1 of LEP 2011 identifies the relevant acquiring authority.

Proposal: That the Land Reservation Acquisition Map be amended in the North Shore locality by removing:

- (a) from Lots 69 & 70 DP 219719, Lot 27 DP 221558 and Lots 67 & 68 DP 754451 - the feature labelled 'National Park (E1)', and
- (b) from 56 & 57 DP 219719 - the feature labelled 'Environment Protection (E2)'.

6. 24 Yaluma Drive, Port Macquarie

This 0.47 ha property (outlined in red) is zoned E3 Environmental Management with a minimum lot size of 0.5 ha, no maximum floor space ratio and a maximum building height limit (as applies to adjacent land) of 8.5 m. This zoning was initially applied to facilitate a ridge-top line of trees, though this privately-owned lot is below the most prominent section of the ridgeline. Retention of these provisions does not achieve the original objectives, and it is proposed that standard residential controls be applied.



Proposal: That for Lot 31 DP 835708 No 24 Yaluma Drive, Port Macquarie, the LEP 2011 Maps be amended as follows:

- Land Zoning Map - Zone R1 General Residential
- Lot Size Map - minimum lot size of 450 sqm
- Floor Space Ratio Map - maximum 0.65:1.

Options

Council could choose to omit or modify the Planning Proposal for any of the issues. Council could also choose not to proceed with the preparation of a Planning Proposal at this time. As each of the matters are considered to be minor administrative amendments to LEP 2011, it is recommended that Council proceed with the preparation of a Planning Proposal to amend LEP 2011 for Issues 1 to 6, as described in this report.

Community Engagement & Internal Consultation

There has been internal consultation with relevant Council staff in the preparation of this report.

The process for amending the LEP is subject to the 'Gateway determination' from the Department of Planning and Environment. The Gateway determination specifies community engagement requirements for the planning proposal. It is therefore proposed to undertake public exhibition, as specified in the Gateway determination and that a further report be presented to Council if any objections are received.

Planning & Policy Implications

These proposed minor amendments will facilitate future development through the fine-tuning of the LEP provisions.

Financial & Economic Implications

The preparation of administrative amendments to LEP 2011 is identified in Council's current Operational Plan.

The proposed LEP amendments apply to land owned by Council at Bain Park, Wauchope and within the Queens Grant Estate, North Shore.

There are no expected economic impacts or financial impacts for Council in the proposed LEP amendments.

It is anticipated that there will be cost savings to the community in the future due to the removal of potential complications to development or simplification of the planning controls.

Attachments

Nil