

CONSULTATION AND PUBLIC EXHIBITION

6 February to 6 March 2022

Planning Proposal under section 3.33 of the EP&A Act

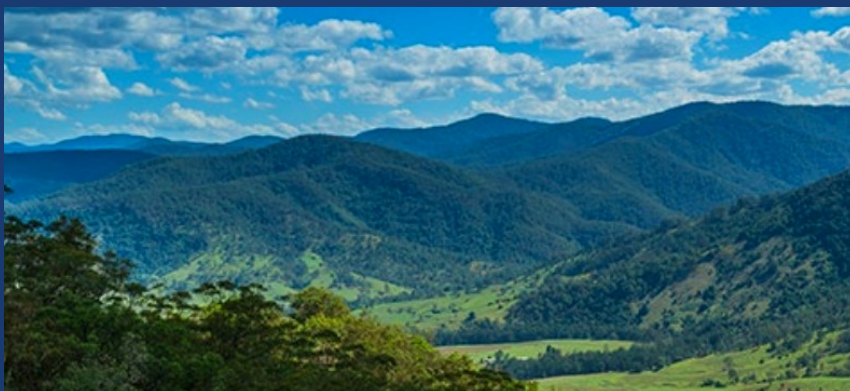
*Port Macquarie-Hastings LEP 2011
(Amendment No 62)*

Planning amendments for secondary dwellings in rural zones

Ccl ref: PP2022 - 4.1

DP&E ref: PP-2022-4099

Date: 10 September 2022



Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Reported to Council (section 3.33)	21/07/2022
Adopted by Council & referred to DP&E (sec 3.34 (1))	21/07/2022
Section 3.22 Submission	16/08/2022
Section 3.33 Submission	24/10/2022
Gateway Panel determination (sec 3.34 (2))	22/12/2022
Revisions required: Yes. Completed	06/01/2023
Public Exhibition (where applicable) (Sch 1 cl 4)	06/02/2022 - 06/03/2022
For Council review (sec 3.35 (1))	TBA
Adopted by Council for submission to Minister's delegate (sec 3.36 (2))	TBA

Council reference: DD032.2022.00000004.001
(Amendment No will initially be blank) Port Macquarie-Hastings LEP 2011 (Amendment No 62)

Department of Planning & Environment reference: DPE:PP-2022-4099

Environment reference:

Council Address

Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Contact Officer

Leanne Fuller
Email leanne.fuller@pmhc.nsw.gov.au
Phone 02 65818 111

Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on **21st July 2022** by *Port Macquarie-Hastings Council*.

2. For section 3.35 finalisation

This Planning Proposal is expected to be endorsed for finalisation at a future meeting of Ordinary Council later in 2023.

Exhibition information

Planning Proposal

This is a Planning Proposal to facilitate secondary dwellings in rural zones under Port Macquarie-Hastings Local Environmental Plan (LEP) 2011. LEP 2011 is the principle plan for our Local Government Area (LGA).

The Planning Proposal seeks an administrative update to the *Port Macquarie-Hastings Local Environmental Plan (LEP) 2011* to support housing diversity in rural areas by making secondary dwellings permissible in rural zones where dwellings are permitted.

The change will be implemented through an amendment to the *Port Macquarie-Hastings Local Environmental Plan (LEP) 2011* to include (Optional) 'Clause 5.5 controls relating to Secondary Dwellings in a rural zone' of the Standard Instrument - Principal Local Environmental Plan 2006 under the *Environmental Planning and Assessment (EP&A) Act 1979*.

What is a planning proposal?

A Planning Proposal is a document that is prepared by a Council when it is intended to make changes to a local environmental plan (LEP). It sets out the intended effect and justification for the proposed changes to the zoning of the land referenced in the Planning Proposal document. Under the Environmental Planning and Assessment Act 1979, Council must prepare and submit a Planning Proposal to the NSW Department of Planning and Environment for consideration of an amendment to the Port Macquarie-Hastings LEP 2011.

This Planning Proposal is set out in the manner required by the State Government and it contains information required by the State Government when Council's prepare changes to their local environmental plans.

What is the intent of this planning proposal?

The intent of the Planning Proposal is to build on already commenced provisions for development of secondary dwellings in residential zones through *State Environmental Planning Policy (Housing) 2021* (Housing SEPP).

Under current LEP 2011 planning provisions, secondary dwellings are permitted with consent in residential zones *R1 General Residential, R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, and R5 Large Lot Residential*, **but not in rural zones RU1 Primary Production, RU2 Rural Landscape and RU5 Village**.

The NSW Government Optional Standard Instrument (SI) - Principal Local Environmental Plan (2006) Order - Clause 5.5 relates to secondary dwellings on land in a rural zone - 'SI Clause 5.5 Secondary dwellings on land in a rural zone'. The clause is optional for councils to use in their LEPs.

Port Macquarie-Hastings Council formally adopted *Optional Clause 5.5 (SI Clause 5.5)* at its Ordinary Council Meeting held on 21st July 2022 for inclusion in Port Macquarie-Hastings LEP 2011.

Process for amending the Port Macquarie-Hastings LEP 2011.

The normal mechanism for making changes to all Local Environmental Plans (LEPs) is to prepare a 'Planning Proposal' and an "amending LEP" that will replace the relevant sections of text and or maps in the principle LEP for an area. Preparation of a Planning Proposal initiates a process established by the NSW government known as the 'Gateway Process'. A Planning Proposal is to be endorsed by the local council before it can proceed to the NSW Government for a decision on

whether the proposal should proceed or not. The decision and terms of approval, or not, is referred to as a Gateway Determination.

The Benchmark timeframes, and stages in the LEP-making process for this *Standard* Planning Proposal are:

1. **Pre-Lodgement** - preparing the Planning Proposal - 50 days.
2. **Planning Proposal** - Preparing the planning proposal - 95 days.
3. **Gateway Determination** - Department of Planning review of the planning proposal - 25 days.
4. **Post Gateway** - Actioning Gateway determination conditions - 50 days.
5. **Public Exhibition and Assessment** - Engaging with the community - 95 days.
6. **Finalisation** - Making the LEP - 55 days

Changes to Planning Controls

This Planning Proposal is for a text only amendment to Port Macquarie-Hastings LEP 2011. This means that the only change to LEP 2011 will be in relation to the LEP text.

For any enquiries relating to the planning proposal, please contact Leanne Fuller on 6581 8111 or via email: leanne.fuller@pmhc.nsw.gov.au

Public Exhibition

The exhibition period is from 6 February 2023 to 6 March 2023, with the Planning Proposal available for inspection by any person at Council's Customer Service Centre at Port Macquarie and on haveyoursay.pmhc.nsw.gov.au.

Submissions

Any person may make a written submission via the Planning Portal up until the end of the exhibition period. The submission should quote the Planning Portal Reference No PP-2022-4099, or posted to

The Chief Executive Officer
Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444.

Note that any submission may be made public.

Section 10.4 (5) of the *Environmental Planning and Assessment Act 1979* states in part:

"A person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of that council,
- (b) all gifts made to any local councillor or employee of that council."

If further information or forms are required, ask Council's Customer Service staff.

Further information

For further information please contact Leanne Fuller on phone 02 6581 8111.

Table of Contents

Executive Summary	6
Background	6
Planning Proposal	8
Part 1 - Objectives or Intended Outcomes.....	8
Part 2 - Explanation of Provisions.....	8
Part 3 – Justification.....	9
A - Need for the planning proposal.	9
B - Relationship to strategic planning framework.	10
C - Environmental, social and economic impact.....	25
D - State and Commonwealth interests.	25
Part 4 – Mapping.....	26
A - Affected land.....	26
B - Comparison of before and after	26
C - Draft LEP maps.....	26
Part 5 – Community Consultation	26
Part 6 – Project Timeline	26
Appendix A – Gateway Determination	29
Appendix B – Details of proposed amendments	31
Appendix C – List of proposed amendments.....	32
A. Changes to text	32
B. Changes to Map Sheets	32
Appendix D – Consistency with applicable State Environmental Planning Policies	34
Appendix E – Consistency with applicable Section 9.1 Ministerial Directions	Error!
Bookmark not defined.	
Appendix F – Acronyms, Glossary and References.....	36
Appendix G – Map Cover Sheet and new Map Sheets.....	Error! Bookmark not defined.

Executive Summary

This is a Planning Proposal prepared under section 3.33 of the *Environmental Planning and Assessment Act 1979*, the NSW Government Local Environmental Plan Making Guideline (September 2022), and Port Macquarie-Hastings Council Planning Proposal Policy (effective February 2020).

It explains the intended effects of a proposed Text only amendment to the *Port Macquarie-Hastings Local Environmental Plan (LEP) 2011* to:

- introduce secondary dwellings as a permissible land use in rural zones RU1 Primary Production, RU2 Rural Landscape, and RU5 Village.
- include *Optional Standard Instrument - Principal Local Environmental Plan (2006) Order - Clause 5.5 (SI Clause 5.5) Controls relating to secondary dwellings on land in a rural zone*;
- apply appropriate development standards for secondary dwellings including total floor area, and maximum separation distance of 100m from the principal dwelling.

The proposal will allow residents to submit applications for development consent for secondary dwellings in urban zones and rural zones where dwellings are permitted.

The inclusion of Optional SI Clause 5.5 is a decision for Council. The Minister for Planning and Minister for Homes has a final decision in relation to requirements for community consultation and finalisation of changes to the *Port Macquarie-Hastings Local Environmental Plan (LEP) 2011*. The Minister has categorised the planning proposal as standard as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days.

The Site/Location

The planning proposal is relevant to the following rural zones in the Port Macquarie-Hastings Council Local Government Area (LGA):

- RU1 Primary Production
- RU2 Rural Landscape
- RU5 Village

Background

At its Ordinary Council Meeting held on 21st July 2022, Port Macquarie-Hastings Council resolved as follows:

RESOLVED: *Intemann/Roberts*

That Council:

1. *Adopt the State Government Standard Instrument - Principal Local Environmental Plan 2006 (SI LEP)) optional 'Clause 5.5 Controls relating to secondary dwellings on land in a rural zone' for inclusion in the Port Macquarie-Hastings Local Environmental Plan 2011.*
2. *Notify the Department of Planning and Environment of its decision to adopt Optional 'Clause 5.5 Controls relating to secondary dwellings on land in a rural zone', including:*

- (a) Permitting secondary dwellings with development consent in the following land use zones:
 - i. RU1 Primary Production,
 - ii. RU2 Rural Landscape, and
 - iii. RU5 Village;
 - (b) Setting the following development controls for Clause 5.5:
 - i. the greater of
 - a) 60 square metres total floor area the total for the secondary dwelling, or
 - b) 33% of the total floor area of the principal dwelling, excluding any area used for parking, and
 - ii. the distance between the secondary dwelling and the principal dwelling must not exceed -
 - a) 100 metres.
3. Request the Minister for Planning and Minister for Homes, the Hon. Anthony Roberts MP to prepare a draft Local Environmental Plan under Section 3.22 of the *Environmental Planning and Assessment Act, 1979* to expedite an amendment to the *Port Macquarie-Hastings Local Environmental Plan 2011* to insert optional 'Clause 5.5 Controls relating to secondary dwellings on land in a rural zone' from the *Standard Instrument - Principal Local Environmental Plan 2006*.

CARRIED: 8/0

FOR: Edwards, Griffiths, Intemann, Lipovac, Pinson, Roberts, Sheppard and Slade

AGAINST: Nil

Consistent with Item 3 above, a submission was uploaded the NSW Planning Portal on 16 August 2022, under Section 3.22 of the EP&A Act.

On 18 August 2022, the Department of Planning, Industry and Environment notified Council that the application should be resubmitted as a new Planning proposal under Section 3.33 of the *Environmental Planning and Assessment Act 1979* - not being acceptable as an expedited amendment under Section 3.22 as it proposes to introduce "a control which should be subject to community and agency consultation". Subsequent discussion with staff from the DPE confirmed the need for submission of a completed Planning Proposal.

This Planning Proposal responds to the above Portal notification to Port Macquarie-Hastings Council.

Planning Proposal

Part 1 - Objectives and Intended Outcomes

Port Macquarie-Hastings Local Environmental Plan (LEP) 2011 currently permits secondary dwellings with consent in residential zones *R1 General Residential*, *R2 Low Density Residential*, *R3 Medium Density Residential*, *R4 High Density Residential*, and *R5 Large Lot Residential*, but not in rural zones *RU1 Primary Production*, *RU2 Rural Landscape* and *RU5 Village*.

The Planning Proposal seeks to amend Port Macquarie-Hastings LEP 2011 to give effect to:

- *Optional Standard Instrument - Principal Local Environmental Plan (2006) Order - Clause 5.5 (SI Clause 5.5) Controls relating to secondary dwellings on land in a rural zone* in Port Macquarie-Hastings LEP 2011;
- applications for development consent to build a secondary dwelling house in rural areas of the Port Macquarie-Hastings Local Government Area (LGA).
- secondary dwellings as a type of residential accommodation in rural zones where dwellings are permitted;

Part 2 - Explanation of Provisions

The proposed mechanisms to achieve the intended outcomes are:

- Amend the Port Macquarie-Hastings LEP 2011 text to introduce optional Standard Instrument 'Clause 5.5 Controls relating to secondary dwellings on land in a rural zone'.
- Amend the Port Macquarie-Hastings LEP 2011 text to apply the following development controls for Clause 5.5:
 - i. *the greater of -*
 - a) *60 square metres total floor area for the secondary dwelling, or*
 - b) *33% of the total floor area of the principal dwelling, excluding any area used for parking, and*
 - ii. *the distance between the secondary dwelling and the principal dwelling must not exceed -*
 - a) *100 metres.*
- Amend Item 3 *Permitted with consent* of the land Use Table for zones *RU1 Primary Production*, *RU2 Rural Landscape*, and *RU5 Village* to insert 'secondary dwelling' as development permitted with consent.

A comparison of provisions between the existing LEP and the proposed amended LEP is provided within Table 1 below.

Table 1 Explanation of Provisions - Clause 5.5

Current LEP 2011 Provision	Proposed LEP 2011 Provision
<i>Part 5 Miscellaneous provisions</i> <i>5.5 Controls relating to secondary dwellings on land in a rural zone</i> [Not adopted]	<i>Part 5 Miscellaneous provisions</i> <i>5.5 Controls relating to secondary dwellings on land in a rural zone</i> <i>If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone—</i>

	<p>(a) the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—</p> <p>(i) 60 square metres,</p> <p>(ii) 33% of the total floor area of the principal dwelling, and</p> <p>(b) the distance between the secondary dwelling and the principal dwelling must not exceed 100 metres.</p> <p>Direction—</p> <p>This clause may also be adopted without paragraph (a) or without paragraph (b).</p>
--	---

Table 2 Explanation of Land Use Table provisions

Land Use Table	Current LEP 2011 Provision	Proposed LEP 2011 Provision
RU1 Primary Production	Secondary dwelling prohibited	Insert 'secondary dwelling' in appropriate order in item '3 Permitted with consent'
RU2 Rural Landscape	Secondary dwelling prohibited	Insert 'secondary dwelling' in appropriate order in item '3 Permitted with consent'
RU5 Village	Secondary dwelling prohibited	Insert 'secondary dwelling' in appropriate order in item '3 Permitted with consent'

Part 3 Justification of strategic and site-specific merit

A - Need for the planning proposal.

3.1 Is the planning proposal a result of an endorsed LSPS, strategic study or report?

The Planning Proposal is Council initiated. It aligns with Council's Local Strategic Planning Statement *Shaping Our Future 2040*, which identifies the need to provide greater housing diversity in the LGA, particularly smaller dwellings, to contribute to improved housing diversity and affordable housing options. Secondary dwellings can be used as a downsizing option as peoples housing needs change through their lives, or as visitor accommodation for family or friends, accommodation for a young adult or older parents, or rented to a tenant.

3.2 Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This Planning Proposal is the only means of amending the LEP to permit secondary dwellings in the LGA's rural zones. As outlined within this document, the current LEP provisions do not permit secondary dwelling in rural zones RU1 Primary Production, RU2 Rural Landscape, and RU5 Village.

B - Relationship to the strategic planning framework.

3.3 Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?

North Coast Regional Plan 2041

The North Coast Regional Plan 2041 provides the overarching strategic direction for land use and development across the North Coast region with a focus on liveability, resilience, economic growth, environmental protection, and planning for sustainable communities.

The Planning Proposal is broadly consistent with and gives effect to the Vision, Goals, and inconsistent Objectives of the regional plan, particularly:

Objective 2, which seeks to increase housing diversity and choice, improve affordability, help meet the needs of an ageing population and support liveable homes that are responsive to changing needs and household size.

The Planning Proposal will insert *SI Clause 5.5* in the Port Macquarie-Hastings LEP 2011 to allow a secondary dwelling, associated with a primary dwelling, to be built anywhere in the LGA where rural dwellings are permitted.

The intended outcome of permitting secondary dwellings in the RU1, RU2 and RU5 zones, is consistent with the Objective. If completed, the Planning proposal has potential to improve housing supply, diversity and affordability in rural zones across the Port Macquarie-Hastings Local Government Area (LGA).

Objective 3, which requires that development be appropriately located to limit any adverse impact to the region's areas of high environmental value.

Given the spatial extent of the RU1, RU2 and RU5 zones, it is likely that some lands will contain mapped areas of high environmental value and biodiversity. The development standards proposed for clause 5.5 aim limiting the size and scale of secondary dwellings and ensuring a 'clustered' design from the principal dwelling

(100m max separation distance) is considered likely to minimise the potential for any adverse impact to environmental values during development and construction.

Further, in assessing any future development applications (DAs), the consent authority must be satisfied that appropriate measures are in place to ensure enhancement of biodiversity and implementation of the 'avoid' principle in relation to land containing high environmental values.

Consultation with the NSW Department of Planning and Environment – Biodiversity and Conservation Division is required in relation to this Objective.

Objective 4, which aims to avoid harm to Aboriginal objects and places, or areas of significance to Aboriginal people.

Matters of cultural or heritage significance related to any future applications to develop a secondary dwelling can be adequately considered and addressed at the DA stage via clause 5.10 of LEP 2011.

Consultation with the Birpai Land Council is required in relation to this proposal.

Objective 5, acknowledging natural hazards that may impact land on the North Coast and above all to reduce the risk from such hazards.

Given the spatial extent of the RU1, RU2 and RU5 zones it is considered likely that some lands will be subject to bushfire risk, acid sulfate soils and or flooding. All of these matters are able to be addressed as part of the DA process, noting that land would have already been developed with a rural dwelling or dual occupancy.

Objective 8, which recognises that agriculture is a key industry for the North Coast and promotes retention and management of the LGA's agricultural productive capacity by limiting incompatible land uses and fragmentation. It also notes that important farmland on the North Coast has been mapped to support long-term agricultural production and help avoid land use conflicts

The proposal is not considered to be inconsistent with this objective. Secondary dwellings are intended to be located in proximity to the principal dwelling (i.e. in a clustered manner) to assist in the preservation of important farmland and minimise land use conflict. A rural lot on which a secondary dwelling is constructed through the provisions of *Clause 5.5* cannot be subdivided, and no changes are proposed that would permit further subdivision of rural land.

Consultation with the NSW Department of Primary Industries – Agriculture in relation to this Objective is required.

The planning proposal aligns with the Local Government Narrative for Port Macquarie-Hastings. Particularly delivery of innovative housing solutions to ensure housing diversity, including increased affordable housing, and housing that caters to the LGA's ageing population.

The NSW Housing Strategy, Housing 2041

The Planning Proposal is consistent with the strategy which sets a long-term vision and objectives for better housing outcomes across NSW. Consistent with the Strategy, the Planning Proposal will benefit people across the housing spectrum, from those temporarily without a home to those seeking housing that better suits their needs, and for people and households that may move along the spectrum depending on life events, aspirations, and capacity.

Overall, the Planning Proposal has strategic planning merit; it aligns with the longer term objectives and vision of the NSW Government for housing in NSW and it will remove current barriers to small housing in rural zones in the Port Macquarie-Hastings sub-region.

3.4 Is the planning proposal consistent with a Council LSPS that has been endorsed by the Planning Secretary or Greater Sydney Commission, or another endorsed local strategy or strategic plan?

The Planning Proposal is consistent with Council's LSPS that has been endorsed by Port Macquarie-Hastings Council and the NSW Government, and published on the Planning Portal.

The Role of Shaping Our Future is to:

- Set the 20-year land-use vision for the Port Macquarie-Hastings region
- Identify the special characteristics that contribute to local identity and make our area special
- Recognise our shared community values and how they will be maintained or enhanced
- Direct how we manage future change
- Identify and give effect to relevant directions located within the North Coast Regional Plan 2036
- Identify gaps of knowledge where further strategic planning work is needed
- Link Council's strategies and plans to the implementation of the NSW Government's Strategic Plans
- Shape planning controls to facilitate the external environment over its 20-year life

The planning proposal is broadly consistent with, and will give effect to Shaping Our Future 2040. The relevant planning principles/priorities in the Statement are:

Shaping Our Future 2040 Planning Principles	Justification
➤ Result in sustainable outcomes for our community now and into the future; considering Environmental, Social, and Economic factors and risks;	This principle is a guiding principle for Council decision making. It reflects our people's desire for more sustainable and equitable ways of living. In this regard, the planning proposal addresses an existing inequity in housing choice in rural and urban areas of the LGA.
➤ Work in an adaptive management framework that allows the review and amendment of Council's planning policies to ensure that our unique scenic landscape qualities, ecological and biodiversity values are recognised;	<p>The planning proposal responds to the Standard Instrument Order (Local Environmental Plans) Amendment (Secondary Dwellings) Order 2020.</p> <p>The planning proposal will bring Council's planning framework into alignment with state-wide provisions for small housing in rural zones. The planning proposal seeks to allow rural landowners the opportunity to construct reasonable sized dwellings while ensuring secondary dwellings remain contextually appropriate within the rural, and natural landscape.</p>
➤ Positively contribute to our built environment;	The planning proposal will provide rural landowners with options for secondary dwellings of reasonable built form and scale, in keeping with the character of the

Shaping Our Future 2040 Planning Principles	Justification
	rural locality, and in context with the primary dwelling on the land.
➤ Enhance equity, social inclusion and community participation;	The planning proposal will ensure the diversification of housing typologies on rural zoned land and facilitate the delivery of more affordable housing options in rural areas.
➤ Be robust, future-focused and evidence based;	The planning proposal addresses recent enquires and current limitations for secondary dwellings in rural zones.
➤ Facilitate transparent collaboration processes and involve stakeholders and the community early.	Public exhibition, and engagement with stakeholders is envisaged, conditional on a Gateway Determination issued by the Department of Planning and Environment in relation to the
Shaping Our Future 2040 Planning Priority	Justification
➤ Planning priority 2 - Manage growth sustainable	The planning proposal will aid in achieving housing diversity and liveable neighbourhoods that meet growth targets within a rural context.
➤ Planning priority 7 - Provide for a diversity of housing in the right locations.	The LSPS seeks to ensure that a range of housing options are available to meet the varying needs, lifestyles and financial capacities of existing and future residents
➤ Planning priority 9 - Preserve and enhance the distinctive character, size and scale of our towns, villages and rural communities.	The nomination of size criteria for secondary dwellings is intended to ensure a balanced approach to improving diversity of housing in rural areas in keeping with rural character, the natural environment and rural amenity.
➤ Planning Priority 15 - Protect and sustainably manage our productive agricultural land and create diverse economic opportunities for our rural communities	The planning proposal responds to the community's desire to have greater opportunity for non-urban land owners to construct reasonably sized secondary dwellings of appropriate scale for their rural context.

3.5 Is the planning proposal consistent with any other applicable State and regional studies or strategies?

The NSW State Infrastructure Strategy (SIS) 2018-2038, Future Transport 2056 and A 20-year Economic Vision for Regional NSW are relevant. The Planning Proposal is broadly consistent with these strategies.

The 2022–23 State Infrastructure Plan (SIP) under the SIS provides a 5-year plan of major infrastructure projects, and has regard to the newly released 20-year State Infrastructure Strategy, which recognises the mismatch between the timely provision of infrastructure aligned with rezoning in the context of a growing population. The composition of committed projects is largely unchanged relative to the Pipeline published in 2021 which focuses on identified regional growth precincts and locations of immediate need. There are no major projects foreshadowed for the Port Macquarie-Hastings LGA within the 5-year term of the strategy, noting major funding of area wide benefit in previous years, changes to the Government's portfolio of high value regional need projects, and government response to ongoing natural disasters across wide areas of the state.

The Hastings Macleay Regional Economic Development Strategy 2018-2022 seeks to facilitate economic development across Hastings-Macleay. The planning proposal offers expanded potential for investment in rural housing supply aligned with jobs in agritourism, timber, produce and food production.

3.6 Is the planning proposal consistent with applicable SEPPs?

A detailed assessment of consistency with relevant SEPPs is contained in Appendix D. A key point is consistency with the Housing SEPP by means of enabling lawful development of smaller housing types in rural areas, including purpose-built rental housing; encouraging housing that meets the needs of rural communities; and countering losses in rental housing supply.

3.7 Is the planning proposal consistent with applicable Ministerial Directions (section 9.1 Directions)?

An assessment against relevant Ministerial Directions under section 9.1 of the EP&A Act 1979 is set out in the following table:

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
1 Planning Systems	
1.1 Implementation of Regional Plans The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.	Justifiably inconsistent. The planning proposal affects rural zoned land, and is broadly consistent with strategic approaches to prioritising rural investment opportunities to support farmers, and prevent fragmentation of rural land. Consultation with government agencies in relation to matters related to biodiversity, high environmental value land, important farmland and cultural heritage is required to address inconsistency of the

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
	<p>proposal with elements of the Regional Plan as it may permit an intensification of development on land that has some of these values. Any inconsistency is considered to be of minor significance as all of these matters are capable of being addressed as part of a future DA process, noting additionally that dual occupancies (attached) are already permissible with consent in the nominated zones.</p> <p>Additionally, Port Macquarie-Hastings Council recognises that appropriate planning controls and incentives can help deliver housing affordability and increase housing diversity in the context of an aging demographic and high proportion of low income earners (North Coast Regional Plan 2041), with housing in many areas less affordable than the State average.</p> <p>As delegate of the Secretary Department of Planning, the Director Northern Region has agreed the inconsistency of the planning proposal with this Direction.</p>
1.2 Development of Aboriginal Land Council land The objective of this direction is to provide for the consideration of development delivery plans prepared under chapter 3 of the State Environmental Planning Policy (Planning Systems) 2021 when planning proposals are prepared by a planning proposal authority.	Not relevant
1.3 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent. This Planning Proposal will not introduce any additional requirements for concurrence with other Government agencies. The proposal is considered consistent with the Direction.
1.4 Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent. The implementation of the subject Planning Proposal will improve opportunities for rural landowners in line with their urban counterparts, and will not introduce new planning provisions to LEP 2011. The proposal is considered consistent with the Direction.
1: Planning Systems - Place Based	
1.5 - 1.18	Metropolitan - Not Relevant to regional NSW.
2 Design and Place	
Non as at 30 September 2022	Not relevant

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
3 Biodiversity and Conservation	
<p>3.1 Conservation Zones</p> <p>The objective of this direction is to protect and conserve environmentally sensitive areas.</p> <p>The direction applies to all relevant planning authorities when preparing a planning proposal, which must:</p> <ul style="list-style-type: none"> • Include provisions that facilitate the protection and conservation of environmentally sensitive areas; • If applying to land in a conservation zone, not reduce the conservation standards that apply to the land <p>A planning proposal may inconsistent with the terms of direction only if the provisions of the planning proposal are justified by a State approved strategy, a supporting study to the planning proposal, or consistent with the relevant regional plan, or is of minor significance.</p>	<p>Justifiably inconsistent.</p> <p>This direction states that a planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.</p> <p>It is considered likely that some lands within the study area may contain high environmental value land and biodiversity values. The proposal does not include provisions that facilitate the protection and conservation of these environmentally sensitive areas.</p> <p>The inconsistency is considered to be of minor significance as the planning proposal does not reduce the conversation standards that apply to the land. Further, the development of secondary dwellings will only be permitted, with consent, on land where rural dwellings are already permitted.</p> <p>As delegate of the Secretary Department of Planning, the Director Northern Region has agreed that any inconsistency of the planning proposal with this Direction is justified in terms of the Direction.</p>
<p>3.2 Heritage Conservation</p> <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.</p>	<p>Justifiably inconcsistent.</p> <p>This direction requires that a planning proposal must contain provisions that facilitate the conservation of heritage and Aboriginal cultural significance.</p> <p>The inconsistency is considered to be of minor significance as the planning proposal does not alter the existing conservation measures of heritage and Aboriginal cultural significance of the study area.</p> <p>As delegate of the Secretary Department of Planning, the Director Northern Region has agreed that any inconsistency of the planning proposal with this Direction is justified in terms of the Direction.</p>
<p>3.3 Sydney Drinking Water Catchments</p> <p>The objective of this direction is to protect water quality in the Sydney drinking water catchment.</p>	<p>Not relevant</p>

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
3.4 Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs The objective of this direction is to ensure that a balanced and consistent approach is taken when applying conservation zones and overlays to land on the NSW Far North Coast.	Not relevant
3.5 Recreation Vehicles Areas The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Not relevant
3.6 Strategic Conservation Planning The objective of this direction is to protect, conserve or enhance areas with high biodiversity value. This direction applies to planning proposals relating to 'avoided land' or a 'strategic conservation area' under SEPP (Biodiversity and Conservation) 2021. Avoided land under the SEPP means land identified as avoided land on the (SEPP) Strategic conservation Planning Avoided Land Map. There are no Avoided Land Maps relevant to the Port Macquarie-Hastings Council LGA as at 30 September 2022. A strategic conservation area is land identified on the SEPP (Biodiversity and Conservation) Strategic Conservation Area Maps	Not relevant
4 Resilience and Hazards	
4.1 Flooding The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Justifiably inconsistent. This direction applies to a planning proposal that alters a provision that affects flood prone land. Given the spatial extent of the subject rural zones, it is considered likely that some land may be subject to inundation by flooding. The planning proposal does not include provisions that give effect to and are consistent with the NSW Flood Prone Land Policy, the principles of the <i>Floodplain Development Manual 2005</i> , the <i>Considering Flooding in Land Use Planning Guidelines 2021</i> or any adopted flood study and or floodplain risk management plan. The inconsistency is considered to be minor significance as LEP 2011 contains provisions that will ensure appropriate consideration of flood planning at the DA stage and noting that dual occupancies are also already permitted with consent in the zones.

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
	<p>As delegate of the Secretary Department of Planning, the Director Northern Region has agreed that any inconsistency of the planning proposal with this Direction is justified in terms of the Direction.</p>
<p>4.2 Coastal Management</p> <p>The objective of this direction is to protect and manage coastal areas of NSW.</p> <p>The direction applies when a planning proposal authority prepares a planning proposal that applies to land that is within the coastal zone, as defined under the Coastal Management Act 2016 - comprising the coastal wetlands and littoral rainforests area, coastal vulnerability area, coastal environment area and coastal use area - and as identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>A planning proposal must give effect to the direction; the <i>Coastal Management Act 2016</i>; and SEPP (Resilience and Hazards) 2021.</p> <p>A planning proposal must not rezone land which would enable increased development or more intensive land use on land within a coastal wetlands and littoral rainforests area (in this case, coastal wetlands, proximity area to coastal wetlands, coastal environment and use areas) identified by the SEPP (Resilience and Hazards) 2021.</p> <p>A planning proposal may be inconsistent with the direction only if the relevant Authority can satisfy the State government that the provisions of the planning proposal are:</p> <ul style="list-style-type: none"> justified by a strategy or a study which gives consideration to the direction; consistent with the relevant regional plan; of minor significance. 	<p>Justifiably inconsistent.</p> <p>A planning proposal must give effect to this direction. Given the extent of the subject rural zones, some lands may be in proximity to, or contain, coastal wetlands or littoral rainforest. As such, this direction is relevant to the planning proposal.</p> <p>Any inconsistency with the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas, the NSW Coastal Management Manual and associated Toolkit, the NSW Coastal Design Guidelines 2003 or any relevant Coastal Management Program is considered to be of minor significance.</p> <p>The proposal will only permit development of secondary dwellings, with consent, in the study area where rural dwellings are currently permitted. Further, any future DA will be required to demonstrate consistency with the above provisions through State Environmental Planning Policy (Resilience and Hazards) 2021.</p> <p>As delegate of the Secretary Department of Planning, the Director Northern Region has agreed that any inconsistency of the planning proposal with this Direction is justified in terms of the Direction.</p>
<p>4.3 Planning for Bushfire Protection</p> <p>The objectives of this direction are:</p> <p>(a) to protect life, property and the environment from bush fire hazards, by discouraging the establishment of incompatible land uses in bush fire prone areas, and</p> <p>(b) to encourage sound management of bush fire prone areas.</p> <p><i>Further details:</i></p> <p>When this direction applies</p> <p>This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.</p>	<p>Unresolved.</p> <p>This direction requires the relevant planning authority to consult with the NSW Rural Fire Service (RFS) following the issue of a Gateway determination where a planning proposal will affect or is in proximity to land mapped as bushfire prone land.</p> <p>Given the spatial extent of the subject rural zones, it is anticipated that some land will fall into this category and therefore, the proposal is potentially inconsistent with this direction.</p> <p>Until consultation with the NSW RFS has occurred, this direction remains unresolved.</p>

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
<p>What a relevant planning authority must do if this direction applies</p> <p>(4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,</p> <p>(5) A planning proposal must:</p> <ul style="list-style-type: none"> (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. <p>(6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate:</p> <ul style="list-style-type: none"> (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: <ul style="list-style-type: none"> (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area. 	
4.4 Remediation of Contaminated Land	Not relevant.

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>This Direction applies when a relevant planning authority prepares a planning proposal that will result in development on land, in this instance, educational purposes:</p> <ul style="list-style-type: none"> (i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for the proposed purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge). <p>Prior to rezoning, Council is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines. If the land is contaminated, the planning proposal authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used</p>	
<p>4.5 Acid Sulfate Soils</p> <p>The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.</p>	<p>Justifiably inconsistent.</p> <p>Where land is mapped as having a probability of containing acid sulfate soils (ASS), this direction requires an ASS study be prepared to support the planning proposal.</p> <p>ASS occur across the PMH LGA and it is likely that lands within the study area are affected. Any inconsistency with this direction may be justified as of minor significance as the PMH LEP 2011 already contains suitable provisions that can ensure this issue is dealt with appropriately at the DA stage.</p> <p>As delegate of the Secretary Department of Planning, the Director Northern Region has agreed that any inconsistency of the planning proposal with this Direction is justified in terms of the Direction.</p>
<p>4.6 Mine Subsidence and Unstable Land</p> <p>The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.</p>	<p>Not relevant</p>

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
5 Transport and Infrastructure	
5.1 Integrating Land Use and Transport The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	Not relevant
5.2 Reserving Land for Public Purposes The objectives of this direction are to: (a) facilitate the provision of public services and facilities by reserving land for public purposes, and (a) (b) facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Not relevant
5.3 Development Near Regulated Airports and Defence Airfields The objectives of this direction are to: (a) ensure the effective and safe operation of regulated airports and defence airfields; (b) ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity; and (b) (c) ensure development, if situated on noise sensitive land, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise	Not relevant
5.4 Shooting Ranges The objectives are to: (a) maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	Not relevant

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
6 Housing	
6.1 Residential Zones The objectives of this direction are to: (a) encourage a variety and choice of housing types to provide for existing and future housing needs, (b) make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (a) minimise the impact of residential development on the environment and resource lands.	Not relevant.
6.2 Caravan Parks and Manufactured Home Estates The objectives of this direction are to: (a) provide for a variety of housing types, and (b) provide opportunities for caravan parks and manufactured home estates.	Not relevant
7 Industry and Employment	
7.1 Business and Industrial Zones The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	Not relevant
7.2 Reduction in Non-Hosted and Short Term Rental Accommodation The objectives of this direction are to: (a) mitigate significant impacts of short-term rental accommodation where non-hosted short-term rental accommodation period are to be reduced, and (b) ensure the impacts of short-term rental accommodation and views of the community are considered.	Not relevant

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
<p>7.3 Commercial and Retail Development along the Pacific Highway, North Coast</p> <p>The objectives for managing commercial and retail development along the Pacific Highway are to:</p> <ul style="list-style-type: none"> (a) protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route, (b) prevent inappropriate development fronting the highway, (c) protect public expenditure invested in the Pacific Highway, (d) protect and improve highway safety and highway efficiency, (e) provide for the food, vehicle service and rest needs of travellers on the highway, and (f) reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns. 	Not relevant.
8 Resources and Energy	
<p>8.1 Mining, Petroleum Production and Extractive industries</p> <p>The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.</p>	Not relevant.
9 Primary Production	
<p>9.1 Rural Zones</p> <p>The objective of this direction is to protect the agricultural production value of rural land. The direction states that a planning proposal must:</p> <ul style="list-style-type: none"> a) not rezone land from a rural zone to a residential, business, industrial, and village or tourist zone. b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village). <p>A Planning Proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or his delegate) that:</p> <ul style="list-style-type: none"> - the provisions of the planning proposal that are inconsistent are in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration 	Not relevant.

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification
to the objective of this direction, or, in this case, of a minor nature.	
<p>9.2 Rural Lands</p> <p>The objectives of the direction are to protect and assist in the management of rural lands and the agricultural potential of rural land; facilitate its orderly and economic use and development; and minimise land use conflict and fragmentation; and encourage sustainable land use practices. The direction applies to preparation of a planning proposal that will in this case affect rural land.</p> <p>A Planning Proposal must be consistent with relevant strategic plans; consider the agricultural significance of the land affected by the planning proposal; consider the natural and physical constraints of the rural land in question; and promote and prioritise rural investment opportunities to support farmers; and prevent fragmentation of rural land. It must also demonstrate that it minimises rural land fragmentation and land use conflict.</p>	<p>Justifiably inconsistent.</p> <p>This direction applies as the proposal seeks to include a provision in PMH LEP 2011 that affects land in a rural zone. The proposal is inconsistent as it does not address and satisfy all of the requirements listed in the direction.</p> <p>This inconsistency is considered to be of minor significance as the proposal broadly aligns with strategic approaches to prioritising rural investment opportunities to support farmers. Further, the proposed development standards for secondary dwellings are not considered likely to increase the potential for rural land use conflict or fragmentation and the proposal is generally consistent with the regional and local planning framework.</p> <p>As delegate of the Secretary Department of Planning, the Director Northern Region has agreed that any inconsistency of the planning proposal with this Direction is justified in terms of the Direction.</p>
<p>9.3 Oyster Aquaculture</p> <p>The objectives of this direction are:</p> <ul style="list-style-type: none"> (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers. 	<p>Not relevant.</p>
<p>9.4 Farmland of State and Regional Significance on the NSW Far North Coast</p> <p>The objectives of this direction are to:</p> <ol style="list-style-type: none"> 1. ensure that the best agricultural land will be available for current and future generations to grow food and fibre, 2. provide more certainty on the status of the best agricultural land, thereby assisting councils with their local strategic settlement planning, and 3. reduce land use conflict arising between agricultural use and non-agricultural use of farmland as caused by urban encroachment into farming areas. 	<p>Consistent.</p>

Section 9.1 (2) Directions and Objectives	
Focus Area	Consistency / Justification

C - Environmental, social and economic impact

3.8 Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?

The intent of the planning proposal is to improve secondary dwelling options in rural zones without adverse environmental impact. While the study area may include areas of critical habitat or threatened species, population or ecological communities, or their habitats, it is considered that future development applications for secondary dwellings would need to consider impacts on threatened species and communities, and ensure implementation of the 'avoid' principle in relation to High Environmental Values land.

3.9 Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?

It is expected that the approvals process for secondary dwellings through Clause 5.5 will allow for any unintended or unforeseen effects of the planning proposal to be adequately and satisfactorily addressed.

3.10 Has the planning proposal adequately addressed any social and economic effects?

The planning proposal is expected to result in increased opportunities to boost housing supply for smaller dwellings in rural areas; aid in Council's response to social issues driven by affordability issues, such as rising urban property and rental values, and loss of urban housing stock and rental accommodation.

In terms of flow on economic impacts, the planning proposal is expected to have a perceptible effect on housing supply in rural areas, and rural accommodation whether for rental, visitor or worker accommodation. Unexpected matters of economic and social considerations are able to be appropriately addressed through the approval process at the time of application for future a secondary dwelling on rural zoned land.

D - Infrastructure (Local, State and Commonwealth)

3.11 Is there adequate public infrastructure for the planning proposal?

The planning proposal will allow secondary dwellings (and additional population) in rural zones RU1 Primary Production, RU2 Rural Landscape and R5 Large Lot Residential.

Typically, reticulated water and sewerage services will not be available in zones RU1 Primary Production and RU2 Rural Landscape, while a reticulated water supply will be generally available to all new secondary dwellings in Zone R5 Large Lot Residential.

No new or additional local or State infrastructure has been identified as being needed as a result of the proposal. The Port Macquarie-Hastings LGA has varying levels of public

infrastructure services available depending on the location. Any future DA would need to consider infrastructure servicing requirements.

Development contributions, also known as Section 7.11 contributions (formally Section 94 contributions), are levies charged to developers. Increasing housing supply in rural areas will have a moderate flow on effect on Council's water supply and road transport network. Payments will apply to new secondary dwellings in rural zones unless specifically exempted under council policy.

E - State and Commonwealth Interests

3.12 11. What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?

Consistent with the Gateway Determination issued in December 2022, consultation for 30 days with the following agencies is required:

- NSW Rural Fire Service
- NSW Department of Primary Industries – Agriculture
- NSW Department of Planning and Environment (Biodiversity Conservation Division)
- Birpai Local Aboriginal Land Council

Part 4 – Maps

A - Affected land

There are no spatially driven mapping changes related to the planning proposal. This means there are no changes to existing LEP map sheets.

B - Comparison of before and after

Not relevant. Below are map extracts showing the current mapping and proposed changes. This may be simplified from what is shown in the legal maps. Alternative zones(s), if a change is proposed.

C - Draft LEP maps

None required.

Part 5 – Community Consultation

Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act. The planning proposal is categorised as standard as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days.

Consultation in accordance with the Local Environmental Plan Making Guidelines and Council's Public Consultation Policy is appropriate. The proposed consultation strategy in conjunction with the public exhibition for this proposal will be Notification of the planning proposal:

- on council's website
- on the Planning Portal

These notices must describe or identify:

- the objectives or intended outcomes of the planning proposal
- the land affected by the planning proposal
- where people can view the proposal
- contact details for submissions
- whether council is the designated LPMA

Written notification to affected and adjoining landowners is impractical given the spatial extent of the RU1, RU2 and RU5 zones, and therefore has not been a requirement of the Gateway determination

The following material must be made available for inspection:

- the planning proposal in the form approved for public exhibition by the Gateway determination
- the Gateway determination
- all relevant additional information relied upon by the planning proposal

Part 6 – Project Timeline

While Port Macquarie-Hastings Council did not specify a proposed timeframe to complete the LEP, the Department has categorised the planning proposal as ‘Standard’ and recommended a timeframe of 9 months to ensure it is completed in line with its commitment to reduce processing times aligned for the category of planning proposal outlined in Table 2 and the recommended period of public exhibition, based on category, in Table 3.

Table 2. Planning Proposal Benchmark Timeframes

Stage	Maximum Benchmark Timeframes (working days)			
	Basic	Standard	Complex	Principal
Stage 1– Pre-lodgement	30 days	50 days	60 days	20-30 days
he Director, Northern Region at the Department of Planning and Environment, as delegate of the Minister for Planning, have determined under section 3.34(2) of the Environmental Planning and Assessment Act 1979 (the Act) that an amendment to the Port Macquarie-Hastings Local Environmental Plan 2011 to permit secondary dwellings with consent in the RU1 Primary Production, RU2 Rural Landscape and RU5 Village zones and apply associated development controls, should proceed subject to the following conditions. Stage 2 – Planning Proposal	80 days	95 days	120 days	40 days
Stage 3 - Gateway determination	25 days	25 days	45 days	45 days

Stage 4 – Post-Gateway	20 days	50 days	70 days	160 days
Stage 5 – Public Exhibition & Assessment	70 days	95 days	115 days	95 days
Stage 6 - Finalisation	25 days	55 days	70 days	80 days
Sub-total (Department target)	140 working days	225 working days	300 working days	380 working days
Total (end to end)	220 days	320 days	420 days	420 days

Note: Department target of 380 working days is measured from Stage 3 – Stage 6 (inclusive).

Table 3 Recommended period of public exhibition, based on category.

Basic	10 working days
Standard	20 working days
Complex	30 working days
Principal	20 working days

As a **Standard** planning proposal, the target date for completion is September 2023.

Appendix A – Gateway Determination

A copy of the Gateway Determination for this Planning Proposal is included in this Appendix.

The Section 3.34 Gateway Determination addresses processing requirements:

- (a) whether the matter should proceed (with or without variation),
- (b) whether the matter should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal),
- (c) the minimum period of public exhibition of the planning proposal (or a determination that no such public exhibition is required because of the minor nature of the proposal),

Note. Under Schedule 1, the mandatory period of public exhibition is 28 days if a determination is not made under paragraph (c).

- (d) any consultation required with State or Commonwealth public authorities that will or may be adversely affected by the proposed instrument,
- (e) whether a public hearing is to be held into the matter by the Independent Planning Commission or other specified person or body,
- (f) the times within which the various stages of the procedure for the making of the proposed instrument are to be completed,
- (g) if the planning proposal authority is a council – whether the council is authorised to make the proposed instrument and any conditions the council is required to comply with before the instrument is made.

On 22 December 2022, the Director Northern Region at the Department of Planning and Environment, as delegate of the Minister for Planning, under section 3.34(2) of the Environmental Planning and Assessment Act 1979 (the Act) issued a Gateway Determination in relation to the planning proposal.

The Determination provides for an amendment to the Port Macquarie-Hastings Local Environmental Plan 2011 to permit secondary dwellings with consent in the RU1 Primary Production, RU2 Rural Landscape and RU5 Village zones and apply associated development controls, to conditionally proceed.

The Gateway provides that Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority (LPMA) under section 3.36(2) of the EP&A Act. As LPMA, council will be responsible for finalising the planning proposal and legally making the plan to amend Port Macquarie-Hastings Local Environmental Plan 2011 to allow secondary dwellings in rural zones.

For reference the Gateway conditions issued on **22 December 2022** are:

1. *Prior to community and agency consultation, the planning proposal is to be updated to:*
 - (a) *revise Part 3B section 3.3 to provide an assessment against relevant aspects of the North Coast Regional Plan 2041; and*
 - (b) *revise the assessment of consistency under s9.1 Direction 1.1 Implementation of Regional Plan Implementation to relate to the North Coast Regional Plan 2041.*
2. *Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:*

-
- (c) *the planning proposal is categorised as standard as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and*
- (d) *the planning proposal 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 Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021).*
3. *Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:*
- *NSW Rural Fire Service*
 - *NSW Department of Primary Industries – Agriculture*
 - *NSW Department of Planning and Environment (Biodiversity and Conservation Division)*
 - *Birpai Local Aboriginal Land Council*
- Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 30 days to comment on the proposal.*
4. *A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).*

Appendix B – Details of proposed amendments

If approved and finalised, the Planning Proposal will result in an update the Port Macquarie-Hastings Local Environmental Plan 2011 text to include SI Optional Clause 5.5.

Implementation of *SI Clause 5.5* will allow a secondary dwelling, associated with a primary dwelling, to be built anywhere in the LGA where dwellings are permitted - apart from environmental zones to protect environmental values, and the rural RU6 Transition zone, which is a buffer zone to minimise conflict between rural zoned land and other land uses of varying intensities and sensitivities, and in which additional dwelling density is inappropriate.

Appendix C – List of proposed amendments

A. Changes to text

Provision	Changes	Appendix B - details reference
SI Clause 5.5	<p>New Clause, to be inserted after existing clause 5.4 in <i>Port Macquarie-Hastings Local Environmental Plan 2011</i> as follows:</p> <p>5.5 Controls relating to secondary dwellings on land in a rural zone [optional]</p> <p><i>If development for the purposes of a secondary dwelling is permitted under this Plan on land in a rural zone:</i></p> <p>(a) <i>the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—</i></p> <p>a. <i>[insert number] square metres - Council adopted <u>60</u> square metres,</i></p> <p>b. <i>[insert number] % of the total floor area of the principal dwelling - Council adopted <u>33</u>%, and the distance between the secondary dwelling and the principal dwelling must not exceed [insert number] metres - Council adopted <u>100</u> metres.</i></p>	As detailed above.

B. Changes to Map Sheets - Not relevant to this planning proposal

The following map sheets are revoked:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map LZN_0	6380_COM_LZN_0	
Lot Size Map LSZ_0	6380_COM_LSZ_0	

Note: This list of current maps may need to be updated for the other amendments finalised prior to this amendment.

The following map sheets are adopted:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map LZN_0	6380_COM_LZN_0#_020_201*	
Lot Size Map LSZ_0	6380_COM_LSZ_0#_020_201*	

Note: The Map Sheet Identifiers will be updated with dates when the sheets are prepared.

These map sheets may need to be updated prior to finalisation, to incorporate separate amendments that may have commenced since the map sheets were prepared. Such changes have no significance to this Planning Proposal.

Appendix D – Consistency with applicable State Environmental Planning Policies

The planning proposal is considered to be generally consistent with all relevant SEPPs. SEPPs that apply are considered below.

State Environmental Planning Policies	Consistency
SEPP (Biodiversity and Conservation) 2021	<p>The aim of this is SEPP <i>aims to encourage the conservation and management of areas of natural vegetation that provide habitat for koalas to support a permanent free-living population over their present range and reverse the current trend of koala population decline -</i></p> <ol style="list-style-type: none"> <i>by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and</i> <i>by encouraging the identification of areas of core koala habitat, and</i> <i>by encouraging the inclusion of areas of core koala habitat in environment protection zones.</i> <p>Chapter3 - Koala Habitat Protection 2020, and Chapter 4 - Koala Habitat Protection 2021 will be addressed through the development application process to assess matters relating to the conservation and management of Koala Habitat.</p>
SEPP (Housing) 2021	<p>Not relevant but nonetheless consistent - The planning proposal is consistent with the Principles of the Policy, which are—</p> <ol style="list-style-type: none"> enabling the development of diverse housing types, including purpose-built rental housing, encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability, ensuring new housing development provides residents with a reasonable level of amenity, promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services, minimising adverse climate and environmental impacts of new housing development, reinforcing the importance of designing housing in a way that reflects and enhances its locality, supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use, mitigating the loss of existing affordable rental housing.
SEPP (Primary Production)	Chapter 2 Primary production and rural development

State Environmental Planning Policies	Consistency
	The relevant aim of the chapter is to reduce land use conflict and sterilisation of rural land by balancing primary production, residential development and the protection of native vegetation, biodiversity and water courses. The requirements of the State Environmental Planning Policy in the context of applications for secondary dwelling are able to be addressed at development application stage.
SEPP (Resilience and Hazards) 2021	<p>Chapter 2 - Coastal Management</p> <p>Detailed assessment and requirements to be considered/addressed in determining future development applications for secondary dwellings in rural zones - Future development must avoid impacts on the biophysical, hydrological or ecological integrity of the wetlands, and ensure quantity and quality of surface and ground water flows to and from the adjacent coastal wetland is acceptable. It is considered that any planning proposal should provide adequate buffers to sensitive coastal wetlands.</p> <p>Chapter 4 - Remediation</p> <p>Clause 4.7 - Contamination and remediation to be considered and addressed in determining future development applications for secondary dwellings in rural zones.</p>
SEPP (Sustainable Buildings) 2022	Consistent. The SEPP sets standards for residential development - to be considered and addressed in determining future development applications for secondary dwellings in rural zones.
SEPP (Transport and Infrastructure) 2017	Not relevant .

Appendix E – Acronyms, Glossary and References

ACC Map - the **Acoustic Controls Map**, one of the map series of *LEP 2011*. This is relevant to clause 7.9, which, for land identified as 'Subject to acoustic controls', has an objective of ensuring that development for residential or tourist purposes, or for any other purpose involving regular human occupation, on land subject to significant exposure to noise (including road traffic noise or extractive industry crushing plant operation noise) incorporates appropriate mitigation measures.

AHD - **Australian Height Datum**, means the reference (or datum) surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971. This provides a consistent basis for defining heights, irrespective of (changes in) ground level.

APU Map - the **Additional Permitted Uses Map**, one of the map series of *LEP 2011*. This is relevant to clause 2.5 and Schedule 1, which permit the specified development (usually subject to consent) for the specified land, notwithstanding anything to the contrary in the Land Use Table.

APZ - **Asset Protection Zone**, in relation to bushfire protection, is a buffer zone between a bush fire hazard and buildings, which is managed progressively to minimise fuel loads and reduce potential radiant heat levels, flame, ember and smoke attack. Refer to *Planning for Bushfire Protection 2006*.

ASS - **Acid sulfate soils**, means naturally occurring sediments and soils containing iron sulfides (principally pyrite) and/or their precursors or oxidation products. The exposure of the sulfides to oxygen by drainage or excavation leads to the generation of sulfuric acid. **Actual acid sulfate soils** have already become acidic, which can leach into other soils or into waterways. Either way, they can damage ecosystems (eg fish kills after rain) or buried pipes or foundations. **Potential acid sulfate soils** are soils which contain iron sulfides or sulfidic material which have not been exposed to air and oxidised.

ASS Map - means the **Acid Sulfate Soils Map**, one of the map series of *LEP 2011*. This is relevant to clause 7.1, which, for land identified by Class 1 to Class 5 on the Map, has an objective of ensuring that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The Map is relevant to some provisions of the *Codes SEPP*.

BASIX - A suite of sustainable planning measures to make all residential dwelling types in NSW energy and water efficient. Key components are [SEPP \(Building Sustainability Index: BASIX\) 2004](#) and certification of compliance with the BASIX targets are different stages of building approval and construction.

[Biodiversity Conservation Act 2016](#) provides the basis for the listing of endangered and threatened species and ecological communities and of key threatening processes. Protection of threatened fish and marine vegetation comes under the *Fisheries Management Act 1994*.

COA Map - the **Coastal Erosion Map**, one of the map series of *LEP 2011*. This is relevant to clause 7.6, which, for land identified as 'Coastal Erosion Risk', seeks to avoid significant adverse impacts from coastal hazards, to enable evacuation in an

emergency and to ensure uses are compatible with the coastal risks. The Map is relevant to some provisions of the *Codes SEPP*.

[*Coastal Design Guidelines 2003*](#) are guidelines issued by the former Coastal Council, and which are referred to in Section 9.1 (2) Ministerial Direction No 2.2.

[*NSW Coastal Management Manual \(2018\)*](#) is the current manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993*, as referred to in Section 9.1 (2) Ministerial Direction No 2.2.

Codes SEPP, or [*State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008*](#), contains State-wide provisions that identify certain types of development that can be carried out as **exempt development**, or with a simplified **complying development** approval process.

DCP - Development Control Plan, a policy document of Council given status under the EP&A Act to be a consideration in the determination of development applications. In this area this is [*Port Macquarie-Hastings Development Control Plan 2013*](#).

DPE - the NSW Department of Planning & Environment, who have a significant role in under the EP&A Act, and who advise, and act under delegation for, the Minister of Planning.

DSP - Developer Servicing Plan, a document which details the developer charges to be levied on development areas which use a water utility's water supply, sewerage infrastructure and/or stormwater infrastructure. This can be under either the *Local Government Act 1993* or the *Water Management Act 2000*.

DWE Map - the Dwelling Opportunity Map, one of the map series of LEP 2011. This is relevant to clause 4.2A, relating to requirements for erection of dwelling houses and dual occupancies in certain rural and environmental protection zones.

EEC - endangered ecological community, one of the categories of species and habitats subject to protections under the [*Biodiversity Conservation Act 2016*](#).

EP&A Act - the [*Environmental Planning and Assessment Act 1979*](#), the relevant NSW Act providing the framework for controlling planning and development within New South Wales. Refer also to **EP&A Reg** for supporting details.

EP&A Reg - the [*Environmental Planning and Assessment Regulation 2000*](#), which contains supporting details to the EP&A Act.

EPBC Act - the Commonwealth [*Environment Protection and Biodiversity Conservation Act 1999*](#), the Australian Government's key piece of environmental legislation.

et - equivalent tenement, an infrastructure term for creating a standard measure of load for differing types of development, in relation to water and sewer services.

FLD Map - the Flood Planning Map, one of the map series of *LEP 2011*. This identifies some land as 'Flood Planning Area', which is subject to clause 7.3, introducing considerations relating to risk, hazard and avoiding significant adverse impacts. Such land is 'Flood control lots' in terms of the *Codes SEPP*. The Map also identifies some land within the area subject to the Probable Maximum Flood but outside the Flood Planning Area as subject to clause 7.4 - this focuses on developments with particular evacuation or emergency response issues and the operational capacity of

emergency response facilities and critical infrastructure during extreme flood events.

[Floodplain Development Manual 2005](#) - the supporting document to the NSW Flood Prone Land Policy. Relevant both to Section 9.1 (2) Ministerial Direction No 4.3 and to assessment of development applications. To be read with a *Guideline on Development Controls on Low Flood Risk Areas* supplement issued in January 2007.

FSR Map - the **Floor Space Ratio Map**, one of the map series of LEP 2011. Refer to **Part 4 – Mapping**. This is relevant to clauses 4.4 and 4.5 of the LEP text.

Gateway determination - the statement by the Minister, or his delegate, on the relevant steps and other requirements relating to the processing of a planning proposal - refer section 3.34 of the EP&A Act. The determination relevant to this planning proposal is contained in **Appendix A**.

[A guide to preparing Local Environmental Plans](#), DP&E August 2016 - provides guidance and information on the process for making local environmental plans under Part 3 of the EP&A Act.

[A guide to preparing planning proposals](#), DP&E August 2016 - provides guidance and information on the process for preparing planning proposals, in accordance with section 9.33 (3) of the EP&A Act.

HER Map - the **Heritage Map**, one of the map series of *LEP 2011*. This is relevant to clause 5.10 and Schedule 5, relating to heritage items, archaeological sites, Aboriginal objects and Aboriginal places of heritage significance. This is relevant to some provisions of the *Codes SEPP*. Note clause 5.10 (5) applies also to land within the vicinity of heritage items.

HOB Map - the **Height of Buildings Map**, one of the map series of LEP 2011. Refer to **Part 4 – Mapping**. This is relevant to clause 4.3 of the LEP text.

KHA Map - the **Koala Habitat Map**, one of the map series of LEP 2011. This is relevant to clause 7.5 of the LEP text.

KPoM - a **Koala Plan of Management**, prepared in accordance with the requirements of *SEPP (Biodiversity and Conservation) 2021*. Usually relates to the site of a development application, but can relate to a larger area.

LAP - the **Land Application Map**, one of the map series of LEP 2011. Clause 1.3 of the LEP text states that the LEP applies to the land identified on the Land Application Map - in this case the whole Port Macquarie-Hastings Local Government Area.

LEP - a **Local Environmental Plan** under the EP&A Act, providing Council-level planning controls over development, subject to any overriding SEPP controls. It consists of written text (based on the *Standard Instrument (Local Environmental Plans) Order 2006*), and several map series, the most important of which is the Land Zoning Map.

A LEP is made or amended by the processing of a Planning Proposal (such as this) in accordance with Part 3 (particularly Division 4) of the EP&A Act.

The LEP for this Council area is [Port Macquarie-Hastings Local Environmental Plan 2011](#) (sometimes abbreviated to **LEP 2011**).

LRA Map - the **Land Reservation Acquisition Map**, one of the map series of *LEP 2011*.

This is relevant to clauses 5.1 and 5.1A, relating to land identified by a public authority as reserved for acquisition for a public purpose. Clause 5.1 identifies the relevant authority for action under the *Land Acquisition (Just Terms Compensation) Act 1991*. Clause 5.1A limits the permitted new land uses pending acquisition.

LSZ Map - the **Lot Size Map**, one of the map series of *LEP 2011*. This is relevant to clauses 4.1 to 4.2C of the *LEP* text. Refer to **Part 4 – Mapping**.

LZN Map - the **Land Zoning Map**, one of the map series of *LEP 2011*. This map identifies the Land Use Zone, which works with the Land Use Table within the *LEP* text to determine the permissibility of most development. It is also relevant to many clauses in the *LEP* text. Refer to **Part 4 – Mapping**.

Native Vegetation Act 2003 has been superseded by the *Biodiversity Conservation Act 2016* and Part 5A of the [Local Land Services Act 2013](#). Also relevant is *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*.

NCRP - [North Coast Regional Plan 2036](#), is the NSW Government's 20 year blueprint for the future of the North Coast. Related to this is the [North Coast Regional Plan 2036 - Implementation Plan 2017-2019](#). Local planning by Councils of the North Coast needs to be consistent with these documents.

[Planning for Bushfire Protection 2006](#) is a publication from the NSW Rural Fire Service outlining the required bush fire protection measures for development applications located on land that has been designated as bush fire prone.

Planning Proposal - a document containing relevant background information about a proposed *LEP* or *LEP* amendment. The minimum requirements are set out in printed guidelines from the DP&E, though can be subject to requirements of a Gateway determination.

PMHC means Port Macquarie-Hastings Council.

RMS - the NSW **Roads and Maritime Services**, who have a role in managing potential road and traffic impacts of changes to planning controls.

RPL Map - the **Land Reclassification (Part Lots) Map**, one of the map series of *LEP 2011*. This is relevant to clause 5.2 and Schedule 4, regarding the reclassifications under the Local Government Act 1993 of part(s) of a lot by the *LEP*.

[Section 9.1 \(2\) Ministerial Directions](#) [previously Section 117 Ministerial Directions] - these are directions issued by the Minister of Planning, and which specify State-wide requirements for planning proposals. If a proposal is inconsistent with a requirement of a Direction, then the Secretary of DP&E (or his delegate) may still permit the planning proposal to proceed if the inconsistency is justified in the particular circumstances.

SEPP - a **State Environmental Planning Policy**, made under Part 3 of the EP&A Act, and overruling *LEPs* where there is any inconsistency. Refer to the list of SEPPs relevant to this Council area on [Council's website](#). Assessment of this proposal in relation to relevant SEPPs is in **Appendix D**.

SPS - **sewerage pumping station**, which is used to move sewage to a sewage treatment plant when gravity sewer mains are inadequate. The sewage travels through a rising main under pressure, and then into a gravity main.

STP - **sewage treatment plant**, where sewage is treated and the waste water made fit for reuse or discharge.

Standard Instrument (Local Environmental Plans) Order 2006 - the specification of the mandatory and discretionary content of LEP text.

Standard Technical Requirements for Spatial Datasets and Maps, DP&E August 2017 - describes the technical specifications for LEP maps and the associated digital mapping data, particularly in relation to introduction of LEP mapping into the DP&E [Planning Portal](#).

SUA Map - the **Significant Urban Areas Map**, one of the map series of *LEP 2011*. This identifies Significant Urban Areas, which are subject to clause 7.11A. The objective of this clause is to ensure that development exhibits design excellence that contributes to the natural, cultural, visual and built character values of Port Macquarie-Hastings.

Threatened Species Conservation Act 1995 has been superseded by the ***Biodiversity Conservation Act 2016*** and Part 5A of the [Local Land Services Act 2013](#).

Towards 2030 Community Strategic Plan, PMHC June 2017 - Council's community strategic plan, as required by section 402 of the [Local Government Act 1993](#).

UGMS - Council's [Urban Growth Management Strategy 2036](#).

URA Map - the **Urban Release Area Map**, one of the map series of *LEP 2011*. This identifies Urban Release Areas, which are subject to clauses 6.1 and 6.2. These clauses relate to ensuring subdivision adequately provides satisfactory arrangements to be made for the provision of designated State public infrastructure; and for Council to generally be satisfied that the essential public utility infrastructure is available for development prior to granting consent.

VPA - **Voluntary Planning Agreements** between Council and landowners under Division 7.1 of Part 7 of the EP&A Act. Through negotiation, they allow for flexibility in infrastructure provision or for other public purposes, which can be hard to achieve with fixed Council-wide requirements relating to infrastructure provision or funding or other implications of development.

VSL Map - the **Visually Sensitive Land Map**, one of the map series of *LEP 2011*. This is relevant to some local exempt development in Schedule 2, and some local complying development in Schedule 3 of the LEP.