

Planning and Providing Our Infrastructure

Item: 13.09

Subject: LEP 2011 (AMENDMENT NO 28) - 28 REFINEMENTS (PP2013-8.1)

Presented by: Development & Environment, Matt Rogers

Alignment with Delivery Program

5.4.2 Review planning instruments and strategies to ensure currency and facilitate sustainable development outcomes whilst acknowledging the impact on community affordability.

RECOMMENDATION

That Council:

1. As result of the consideration of submissions and review of the draft LEP amendments, make the following changes to the draft LEP as described in the report:
 - a) Issue 11 - that the Land Zoning Map and Land Reservation Map changes be updated in line with latest advice from NSW Roads and Maritime Services,
 - b) Issue 11 - in relation to the adjusted cadastre for Dalhenty Island within the Wilson River - that the Land Zoning Map and Lot Size Map be modified in line with the adjusted cadastre,
 - c) Issue 11 - in relation to the residue portions of Lot 31 DP 255774 located between land zoned IN1 and IN2 - that the residues be given the same attributes as the adjoining land on the Land Zoning Map, Lot Size Map, and Height of Building Map,
 - d) Issue 12 - in relation to the proposed E3 zone over parts of Lot 1 DP226821 and Lot 2 DP 222740, Sancrox - that the width of the areas to be zoned E3 be altered as described in the report,
 - e) Issue 18 - that the proposed changes to the Land Zoning Map and the Lot Size Map be withdrawn from this amendment,
 - f) Issue 19 - that Lot 4 DP 774850, Lord St, Deauville, be deferred for further investigation.
2. Take the necessary steps under sections 58 and 59 of the Environmental Planning and Assessment Act 1979 to finalise Local Environmental Plan 2011 (Amendment No 28), incorporating the changes referred to in Point 1.
3. Consult with Crown Lands in relation to a process for a thorough review of the appropriate LEP provisions for the Crown Land within and surrounding Laurieton.
4. Thank in writing all those who made a submission for their contribution and provide information on Council's decision on the matter.

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Executive Summary

In October 2013, Council resolved to prepare a planning proposal to amend LEP 2011 in relation to 27 issues listed in the associated report.

For efficiency in processing mapping amendments, a further issue was 'transferred' from a separate planning proposal, and subsequently expanded to include some like matters.

Responses to the public exhibition, liaison with public authorities and internal review has brought to light the need for some minor alterations.

The purpose of this report is to consider the submissions received, the alterations required, and to recommend the amended planning proposal proceed to finalisation.

Discussion

At its meeting held on 16 October 2013, Council considered a report proposing 27 amendments to Local Environmental Plan 2011 (LEP). These had been identified as necessary in the ongoing implementation of LEP 2011. Given the complexity of the LEP and associated mapping, this is an important continuous improvement process. Council resolved:

12.09 SUBMISSIONS REVIEW - DCP 2011 REFORMATTING AND HOUSEKEEPING

RESOLVED: Sargeant/Cusato

That Council:

1. *Prepare a draft planning proposal as described in this report, pursuant to section 55 of the Environmental Planning and Assessment Act 1979, for the amendment of the provisions of Port Macquarie-Hastings Local Environmental Plan 2011, in relation to 27 issues listed.*
2. *Forward the draft planning proposal to the Department of Planning and Infrastructure for a Gateway Determination, and exhibit the proposal in accordance with that determination, pursuant to sections 56 - 58 of the Act.*
3. *Request that the Director General of the Department of Planning & Infrastructure 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: 9/0

FOR: Besseling, Cusato, Griffiths, Hawkins, Intemann, Levido, Roberts, Sargeant and Turner

AGAINST: Nil

One of the map sheets affected by amendments to the Land Reservation Acquisition Map series (*LRA Map*) was already affected by an existing planning proposal to remove a finalised road widening in Major Innes Road, and it made sense to process those amendments together - this became Issue 28 in this LEP Refinements planning proposal. Subsequent preparation of the planning proposal for public exhibition identified that sheets LRA_013FA and LRA_013G in the LRA Map series

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contained only finalised road acquisitions on Lake Road and Ocean Drive, Port Macquarie, and the Dept of Planning and Environment (DP&E) agreed to deletion of these map sheets being included within the exhibited changes.

The list of the 28 issues is:

- 1 Clause 1.2 Aims of Plan - 2 additional aims
- 2 Zone RU1 - make Rural Industries permissible with consent
- 3 Zone R1 - make Building identification signs permissible with consent
- 4 Zone B7 - make Airports and Storage premises permissible with consent
- 5 Clause 4.1B Minimum subdivision lot sizes for certain split zones - revise key provisions
- 6 New Clause 4.2C - Boundary adjustments of land in certain rural, residential and environment protection zones
- 7 Clause 7.5 Koala habitat - clarify this is ecologically sensitive areas in the Codes SEPP
- 8 Clause 7.9 Development subject to acoustic controls - clarify this is buffer area in the Codes SEPP; and document reference update
- 9 Schedule 5 Heritage items - Item I004 listing of St Thomas The Apostle Anglican complex - correction
- 10 Mapping for 38 to 42 Pead St, Wauchope
- 11 # Mapping for Pacific Highway upgrade
- 12 # Mapping updates for parts of Sancrox Employment Precinct
- 13 Mapping updates in line with corrections to cadastral boundaries for part of Lake Innes Nature Reserve, Port Macquarie
- 14 Mapping updates for part of Waste Transfer Station, Kingfisher Rd, Port Macquarie
- 15 Mapping update for Settlement Point Reserve
- 16 # Mapping corrections for Lots 402-403 DP 1171416 and Lot 39 DP 1093707, Serene Circuit, Port Macquarie
- 17 Mapping changes around Lighthouse Beach shopping centre
- 18 # Mapping (Lot Size) for Crown land zoned E3 at Laurieton
- 19 # Mapping (Lot Size) of land zoned RU1 or E3 at Deauville
- 20 # Mapping (Lot Size) for part of Lot 4 DP 631582, Lorne Rd, Kendall and zoned R5
- 21 Mapping (Lot Size) for part Lot 69 DP 1103700 and part Ocean Drive at Kew and zoned B4
- 22 Mapping (Lot Size) for part Lot 2 DP 504042, Ocean Dr, Kew and zoned B1
- 23 # Mapping (Lot Size) for Lot 1 DP 828014, Koala St, Port Macquarie
- 24 Mapping (Coastal Erosion Risk) for Lot 17 DP 24185, 9 Kalang St, Lake Cathie
- 25 # Mapping (Acid sulfate soils) in the vicinity of Greenmeadows Dr and Colonel Barney Dr and Camilia Cct, Port Macquarie
- 26 Mapping (Height of Buildings) for land zoned E3 at Dunbogan
- 27 Mapping (Koala Habitat) at Lake Cathie and Bonny Hills
- 28 Mapping (removal of Land Reservation Acquisition designation) over some roads in Port Macquarie

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- Report refers to submissions or contains other discussion of this Issue.

Details of each issue are provided in Appendix A (pages 11 - 62) of the Planning Proposal - a copy as exhibited from 16 May to 13 June 2014 (excluding the 33 A3 map sheets) is Attachment 1.

Five submissions were received, as detailed in the community engagement section of this report. More complex submissions or proposed changes are described below.

Issue 11 - Pacific Highway upgrade

In 2010 NSW Roads and Maritime Services (RMS) requested that the land required for the upgrade of the Pacific Highway north of the Oxley Highway be zoned SP2 Infrastructure (Classified Road), and land to be acquired be identified on the Land Reservation Acquisition Map. This is beneficial for Council staff and the public in identifying where there may be issues with access or severing of land in the future.

Recommendation 1 (a)

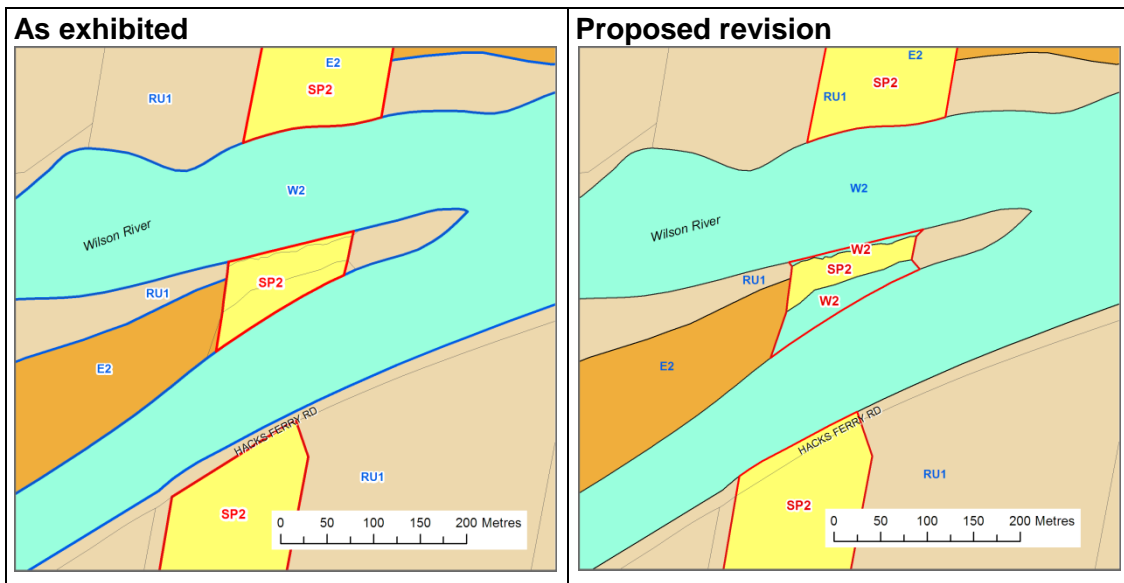
There were delays in the RMS being able to supply the final boundaries, and this current planning proposal is carrying out the RMS request. Given the current activity on this project by the RMS, there continue to be refinements to the acquisition boundaries, and these have been incorporated where possible. Where Plans of Acquisition for the project have been registered, it has been considered that there is no longer any need to identify the land as subject to future acquisition. At the time of writing, there is only one remaining section without a registered Plan of Acquisition.

Accordingly, this recommendation authorises further minor adjustments to the relevant maps, based on the most recent information from the RMS.

Recommendation 1 (b)

An anomaly has been created where cadastral boundaries have been more precisely defined for where the new highway will cross Dalhunty Island within the Wilson River. Below are Land Zoning Map extracts as exhibited, and as proposed to be revised, due to cadastral updates. Only the latest cadastre is shown, and the red outline shows the extent of alternate changes to the Land Zoning Map.

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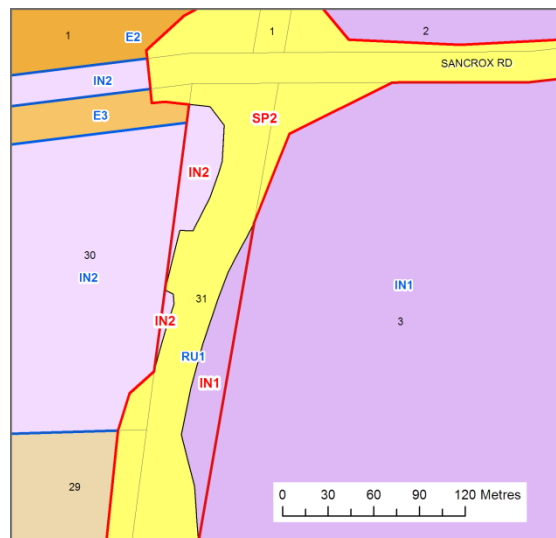


This recommendation allows for adjustments to the Land Zoning Map and the Lot Size Map (which wasn't previously affected) to reflect the revised boundary of Dalhanty Island, including for the transitional changes outside the original red boundary.

Recommendation 1 (c)

The western approach road to the proposed overpass of the Pacific Highway between Sancrox Road and Fernbank Creek Road initially included the full width of the northern 'access handle' of Lot 31 DP255774. Refined RMS plans have reduced this to leave 3 slivers of land which would be zoned RU1 Primary Production, although the adjoining land (in the same ownership) is zoned IN1 General Industrial and IN2 Light Industrial.

DP&E agreed to modifying the proposed zoning as shown prior to exhibition.



Associated changes to the Lot Size Map and the Height of Buildings Map were overlooked - equivalent changes are required on those Maps as well. These changes are consistent with the intent, and don't require re-exhibition.

This recommendation endorses the minor change to the Land Zoning Map, and makes the associated changes to the Lot Size Map and the Height of Buildings Map.



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Issue 12 - Sancrox Highway Employment Precinct - E3 zones

The rezoning of this land in August 2011 included some E3 Environmental Management buffer strips beside parts of the Pacific Highway. This planning proposal included repositioning the buffer strips in line with the highway widening.

The development consent (DA2012-305) for the staged subdivision agreed to a variable width for this buffer to the final boundary of the widened highway. This was raised in a submission (No 1 below), and it is now proposed to adjust the E3 buffer strips to align with the approved subdivision plan.

Recommendation 1 (d) makes this change.

Issue 18 - Crown land at Laurieton

On the western and southern sides of Laurieton there is Crown land which is zoned E3 Environmental Management (which permits dwelling houses), and for which no minimum lot size applies. The subject land is constrained by slope, drainage, flooding or vegetation. In some cases, unconstrained portions are zoned R1 General Residential.

The planning proposal included rezoning the E3 to E2 Environmental Conservation, which would not permit dwelling houses, and application of a 40 ha minimum lot size. NSW Trade & Investment – Crown Lands (Crown Lands) objected to this proposed change - copies of their letters are in Appendix F of Attachment 1.

An on-site meeting with officers of Crown Lands was held to identify a solution. Generally it was recognised that the current zone boundaries for the Crown land are derived from mapping prepared over 30 years ago, and a more detailed review of appropriate zonings for the Crown land at Laurieton is warranted.

It was agreed that further consideration be undertaken jointly by Crown Lands and Council staff, including an assessment of more detailed study requirements to inform decisions regarding appropriate LEP provisions for the Crown land at Laurieton.

Recommendations 1 (e) and 3 relate to this matter.

Issue 19 (part) - Lot 4 DP 774850, Lord St, Deauville

Issue 19 relates to applying a 40 ha minimum lot size over privately owned RU1 and E3 land at Deauville. Presently parts of this land have no minimum lot size applying to subdivision or erection of dwelling houses.

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Submission 3 relates to Lot 4, as shown on the adjoining map. The property extends from Lord St Deauville (opposite the houses on the western side) east over flood plain to the Camden Haven River. In 1983 part of the site immediately adjoining Lord Street was zoned residential in LEP No 21. In May 1984, most of the frontage to Lord St was zoned Residential - shown pink on the map - even though only a limited section is elevated above the flood plain.

The current owner, Mr Shaw purchased the property in 1991. DA2004-304 for a 10 lot subdivision was refused in 2006 for the following reasons:

1. The Department of Infrastructure Planning and Natural Resources have refused to issue a permit pursuant to Part 3A of The Rivers and Foreshore Improvement Act, 1979.
2. Extension of the proposed lots into zone Rural 1(a1) is prohibited
3. The application does not adequately assess the impact of the proposed subdivision on the ecological value of the site

The area zoned residential was changed to RU1 Primary Production in LEP 2011. Mr Shaw states he has no record of being advised of this proposed change, which affects the value of his property.

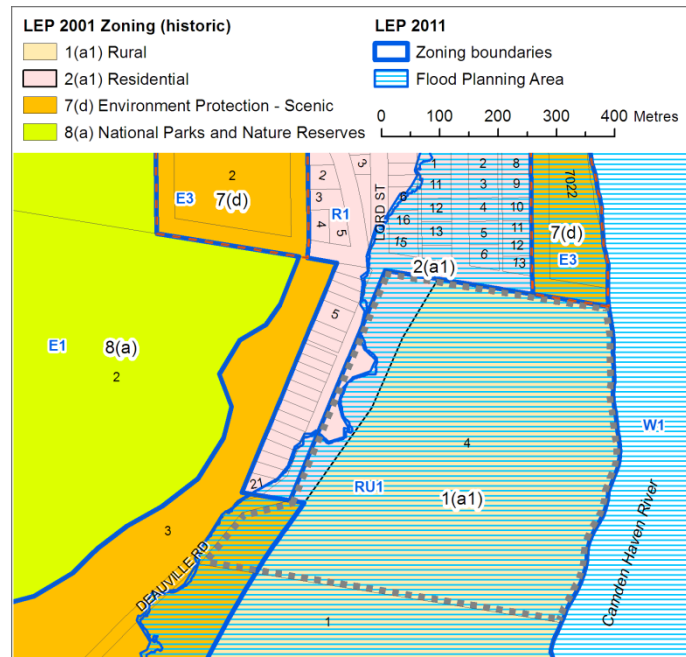
The map shows that only a limited area of Lot 4 is above the Flood Planning Area. It may be possible to provide for a subdivision that allows for a second dwelling on the property, but this would require further investigation.

It is proposed in Recommendation 1 (f) that Lot 4 be deferred from this amending LEP to allow for further investigations to allow for an outcome that provides for limited development compatible with the environmental constraints.

Options

Council has the following options:

1. Proceed with the Planning Proposal as recommended.
2. Proceed with the Planning Proposal with amendments or alternatives to the contents of the report
3. Not proceed with the Planning Proposal.



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There are numerous issues proposed in this report. The proposals are recommended to keep the LEP up-to-date and accurate and to provide the best balance in effective planning to achieve and facilitate good development outcomes.

Community Engagement & Internal Consultation

A public exhibition was held from 16 May to 13 June, based at the 3 Council offices and on PMHC Listening. There were numerous enquiries seeking clarification of the impact of the proposed changes, and most people were satisfied that they would not be adversely affected. Relevant submissions on the planning proposal are outlined below.

Submissions		Issue
1.	King & Campbell (for Expressway Spares Pty Ltd and Mr & Mrs JJ & CB Dunn) - Attachment 2 Sancrox: <i>Issue 11 - Highway upgrade</i> <i>Issue 12 - E3 buffers to highway</i>	<ol style="list-style-type: none"> 1. Want confirmation that boundary of highway upgrade is accurate. 2. Want confirmation that boundary of adjoining E3 zone aligns with DA2012-305 consent.
	Response/Comment:	<ol style="list-style-type: none"> 1. Boundary is based on RMS Plans of Acquisition. 2. Refer to earlier comments on Issue 12 - adjustment to reflect consent is recommended.
2.	King & Campbell (for J. Newton Construction Pty Ltd) - Attachment 3 Greenmeadows Dr locality: <i>Issue 16 - rectifies mapping anomalies for parts of 3 lots, including a Council drainage reserve.</i> <i>Issue 25 - Update to Acid Sulfate Soil classes based on landform changes</i>	<ol style="list-style-type: none"> 1. Support these changes. 2. (Issue 16) A recent DP created a small Public Reserve (Lot 503 DP 1192771) between these lots, and it is suggested that the same provisions apply to it. 3. (Issue 25) Question stricter classification for existing dam which isn't acidic.
	Response/Comment:	<ol style="list-style-type: none"> 1. Noted. 2. While some other minor adjustments are recommended, the grounds for inclusion of this at this stage are not as strong. 3. ASS classes are based not on current acidity, but on potential risk of release of acidity following drying and rehydration of relevant soils. If the dam was drained, there could be a high risk of subsequent release of acid.
3.	Colin Shaw - Attachment 4 1 Lord St, Deauville <i>Issue 19 - applying minimum lot size for privately-owned RU1 and E3 land at Deauville.</i>	<p>Lot 4 DP 774850, Lord St, Deauville</p> <ol style="list-style-type: none"> 1. Objects that he was not notified of the removal of residential zoning over part of his land. 2. Property is 27.5 Ha, and 40 Ha minimum is inappropriate.

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Submissions		Issue
	Response/Comment:	Refer to detailed explanation above. It is recommended that Lot 4 be deferred from this LEP to allow further investigations.
4.	An & BA Yarnold - Attachment 5 <i>Issue 20 - Reduce minimum lot size for 72 Lorne Rd Kendall to 1 Ha, as approved under previous LEP.</i>	Support reduction of minimum lot size for their land.
	Response/Comment:	Noted.
5.	Fiducia Pty Ltd - Attachment 6 <i>Issue 23 - Lot 1 DP 828014 Koala St, Port Macquarie - Apply 6 Ha minimum lot size to land zoned RU1</i>	Requests a 5.5 Ha minimum, on the basis that a residue of 1.79 ha could be created.
	Response/Comment:	Advised that a 6 ha (or 5.5 ha) minimum would not permit any subdivision. Residue has to comply with minimum also.
6.	Geoff Ross - Attachment 4 <i>Issue 26 - Applying maximum building height for land zoned E3 at Dunbogan</i>	Drawing attention to use of superseded locality name of Dicks Hill.
	Response/Comment:	Documentation now updated to Dunbogan.

The Gateway determination required consultation with the following public authorities:

- Department of Trade and Investment (Crown Lands)
- NSW Department of Health
- Office of Environment and Heritage
- NSW Rural Fire Service.

The recommendations extract Issue 18, relating to Crown land at Laurieton, for separate action. The authorities have no other concerns.

Planning & Policy Implications

Broadly, the proposed changes will facilitate development by removing inappropriate restrictions, by rectifying errors and by introducing controls that are consistent with the existing LEP controls.

Financial & Economic Implications

The implementation of the proposed LEP amendments is proposed within Council's Strategic Planning program.

In relation to the matters involving Council owned land (issues 4, 14-17 and 27-28) there is no significant economic or financial impact or benefit for Council, associated with the proposed changes.

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The additional uses proposed for the B7 Business Park zone at the Port Macquarie Airport add to the current wide range of business uses permitted in conjunction with the Airport, which are consistent and compatible with airport operations.

Given the nature of the changes proposed, it is not expected that there will be any significant adverse economic impacts. Proposed changes will largely provide for positive economic development outcomes by clarifying anomalies in the LEP.

Attachments

- 1 [View](#). LEP Refinements (Amend 28) Planning Proposal EXHIBITED - excl LEP maps
- 2 [View](#). King & Campbell (for Expressway Spares and JJ & CB Dunn) submission - Issues 11 & 12
- 3 [View](#). King & Campbell (for Jim Newton) submission - Issues 16 & 25
- 4 [View](#). PMHC Listening submissions - Issues 19 & 26
- 5 [View](#). A & B Yarnold submission - Issue 20
- 6 [View](#). Fiducia Pty Ltd submission - Issue 23

13.09 LEP 2011 (AMENDMENT NO 28) - 28 REFINEMENTS (PP2013-8.1)

RESOLVED: Sargeant/Cusato

That Council:

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4. Thank in writing all those who made a submission for their contribution and provide information on Council's decision on the matter.

CARRIED: 9/0

FOR: Besseling, Cusato, Griffiths, Hawkins, Intemann, Levido, Roberts, Sargeant and Turner

AGAINST: Nil