



Ordinary Council

LATE REPORTS

Business Paper

date of meeting: Wednesday, 17 July 2013

location: Council Chambers, Port Macquarie

time: 5.30pm

Note: Council is distributing this agenda on the strict understanding that the publication and/or announcement of any material from the Paper before the meeting not be such as to presume the outcome of consideration of the matters thereon.



**PORT MACQUARIE
HASTINGS**

Council's Vision

A sustainable high quality of life for all.

Council's Mission

To provide regional leadership and meet the community's needs in an equitable and inclusive way that enhances the area's environmental, social and economic qualities.

Council's Corporate Values

- ★ Sustainability
- ★ Excellence in Service Delivery
- ★ Consultation and Communication
- ★ Openness and Accountability
- ★ Community Advocacy

Council's Guiding Principles

- ★ Ensuring good governance
- ★ Looking after our people
- ★ Helping our community prosper
- ★ Looking after our environment
- ★ Planning & providing our infrastructure



**PORT MACQUARIE
HASTINGS**

How Members of the Public Can Have Their Say at Council Meetings

Council has a commitment to providing members of the public with an input into Council's decision making. The Council's Code of Meeting Practice provides two (2) avenues for members of the public to address Council on issues of interest or concern at the Ordinary Council Meeting. These are:

Addressing Council on an Agenda Item:

If the matter **is** listed in the Council Business Paper, you can request to address Council by:

- Completing the *Request to Speak on an Agenda Item at a Council Meeting*, which can be obtained from Council's Offices at Laurieton, Port Macquarie and Wauchope or by downloading it from Council's website.
- On-line at <http://www.hastings.nsw.gov.au/www/html/2924-addressing-a-council-meeting-in-relation-to-an-agenda-item.asp?intSiteID=1>

Your request to address Council must be received by Council no later than 4:30pm on the day prior to the Council Meeting.

Council's Code of Meeting Practice sets out the following guidelines for addressing Council:

- Addresses will be limited to 5 minutes.
- If you wish any written information, drawings or photos to be distributed to the Council to support the address, two (2) copies should be provided to the Group Manager Governance & Executive Services prior to the commencement of the meeting.
- Where speakers wish to make an audio visual presentation, a copy is to be provided to the Group Manager Governance & Executive Services by 4.30pm on the day prior to the Council Meeting.
- Council will permit only two (2) speakers "Supporting" and two (2) speakers "Opposing" the *Recommendation* contained in the Business Paper. If there are more than two speakers supporting and opposing, the Mayor will request the speakers to determine who will address Council.

Addressing Council in the Public Forum:

If the matter **is not** listed in the Council Business Paper, you can request to address Council by:

- Completing the *Request to Speak in the Public Forum at Ordinary Council Meeting*, which can be obtained from Council's Offices at Laurieton, Port Macquarie and Wauchope or by downloading it from Council's website.
- On-line at <http://www.hastings.nsw.gov.au/www/html/2926-addressing-council-in-the-council-meeting-public-forum.asp?intSiteID=1>

Your request to address Council must be received by Council no later than 4:30pm on the day prior to the Council Meeting.

A maximum of eight (8) speakers will be heard in the Public Forum. Each speaker will be limited to 5 minutes. Council may ask questions of speakers but speakers **cannot** ask questions of Council.

Council will not determine matters raised in the Public Forum session, however may resolve to call for a further report, when appropriate.

Speakers will be allowed to address Council in the Public Forum on the same issue no more than three (3) times in each calendar year. (Representatives of incorporated community groups may be exempted from this restriction).



**PORT MACQUARIE
HASTINGS**

Ordinary Council Meeting

Wednesday, 17 July 2013

LATE REPORTS

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HASTINGS**

Looking After Our Environment

What are we trying to achieve?

We understand and manage the impact that the community has on the natural environment. We protect the environment now and in the future.

What will the result be?

- Accessible and protected waterways, foreshores, beaches and bushlands.
- Renewable energy options.
- Clean waterways.
- An environment that is protected and conserved for future generations.
- Development outcomes that are ecologically sustainable and complement our natural environment.
- Residents that are environmentally aware.
- A community that is prepared for natural events and climate change.

How do we get there?

- 4.1 Protect and restore natural areas.
- 4.2 Ensure service infrastructure maximises efficiency and limits environmental impact.
- 4.3 Implement total water cycle management practices.
- 4.4 Continue to improve waste collection and recycling practices.
- 4.5 Provide community access and opportunities to enjoy our natural environment.
- 4.6 Create a culture that supports and invests in renewable energy.
- 4.7 Increase awareness of and plan for the preservation of local flora and fauna.
- 4.8 Plan and take action to minimise impact of natural events and climate change.
- 4.9 Manage development outcomes to minimise the impact on the natural environment.



Looking After Our Environment

Item: 11.04

Subject: SECTION 82A REVIEW DA 2005 -192 - RURAL DWELLING - OAKES CRESCENT, FERNBANK CREEK

Report Author: Patrick Galbraith-Robertson

Property: Lots 1 & 2 DP 702718, Oakes Crescent, Fernbank Creek
Applicant: GA Evans
Owner: GA Evans
Application Date: 2 November 2007
Date Formal: N/A
Estimated Cost: N/A
Location: Fernbank Creek
File no: DA2005 - 192
Parcel no: 14976 & 14977

Alignment with Delivery Program

4.9.2 Undertake development assessment in accordance with relevant legislation.

RECOMMENDATION

That the Section 82A review of DA 2005-192 for a rural dwelling at Lots 1 & 2, DP 702718, Oakes Crescent, Fernbank Creek, be refused for the following reasons:

1. The proposal is inconsistent with Clause 8 of State Environmental Planning Policy 71 - Coastal Protection. The significant flooding constraints of the site make it unsuitable for residential development.
2. Permitting residential development within a floodway without full knowledge of the potential flooding impacts, which is contrary to local and State guidelines, is not in the public interest.
3. The majority of site is classified as high hazard / floodway with the proposal being contrary to clause 6.2 of Hastings River Floodplain Interim Policy.
4. Emergency evacuations for major floods are likely to be carried out in high hazard flooding conditions with associated risks to the safety of rescue personnel and evacuees.
5. The applicant has not satisfactorily demonstrated that permanent, fail-safe, maintenance-free measures are incorporated in the development to ensure timely, orderly and safe evacuation of people from the area, should a major flood occur.
6. The applicant has not satisfactorily demonstrated that displacement of

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people from this area will not significantly add to the overall cost and community disruption caused by a major flood event.

7. The applicant has not satisfactorily demonstrated that the development will not increase the flood hazard or flood damage to other properties or adversely affect flood behaviour, in accordance with the requirements of the Floodplain Development Manual - 2005.

Executive Summary

This report considers an application for a Section 82A review of DA2005/192 for a rural dwelling at the subject site which was previously determined by refusing consent.

This report provides an assessment of the application in accordance with the requirements of the Environmental Planning and Assessment Act 1979.

No submissions have been received with regard to the proposal.

The S.82A review has been lodged with Council for a significant amount of time with numerous requests for additional information having been made during this period.

As the original application was determined by full Council, the S.82A review must also be determined by Council.

This matter has been considered at the meeting of Council's Development Assessment Panel on 10 July 2013 with a resolution as follows:

'The Development Assessment Panel recommend to Council that the Section 82A review of DA 2005-192 for a rural dwelling at Lots 1 & 2, DP 702718, Oakes Crescent, Fernbank Creek, be refused for the following reasons:

1. *The proposal is inconsistent with Clause 8 of State Environmental Planning Policy 71 - Coastal Protection. The significant flooding constraints of the site make it unsuitable for residential development.*
2. *Permitting residential development within a floodway without full knowledge of the potential flooding impacts, which is contrary to local and State guidelines, is not in the public interest.*
3. *The majority of site is classified as high hazard / floodway with the proposal being contrary to clause 6.2 of Hastings River Floodplain Interim Policy.*
4. *Emergency evacuations for major floods are likely to be carried out in high hazard flooding conditions with associated risks to the safety of rescue personnel and evacuees.*
5. *The applicant has not satisfactorily demonstrated that permanent, fail-safe, maintenance-free measures are incorporated in the development to ensure timely, orderly and safe evacuation of people from the area, should a major flood occur.*
6. *The applicant has not satisfactorily demonstrated that displacement of people from this area will not significantly add to the overall cost and community disruption caused by a major flood event.*

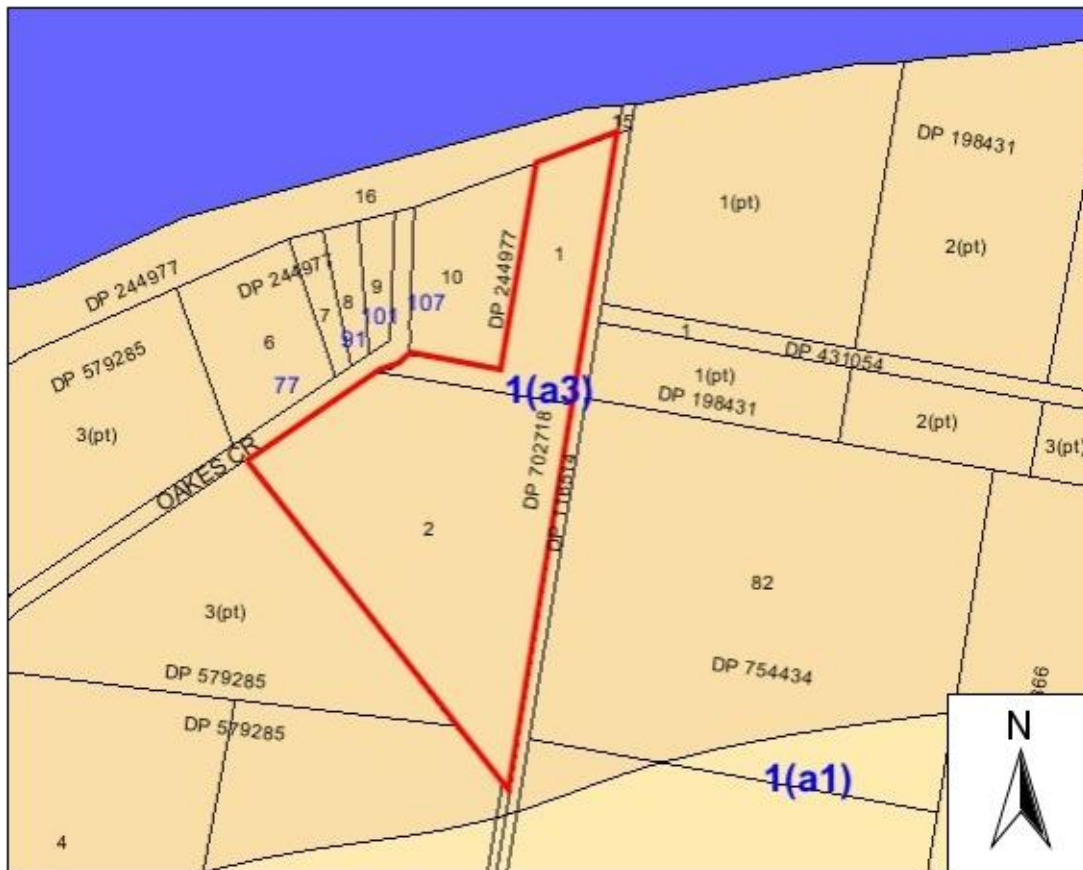
Looking After Our Environment

7. *The applicant has not satisfactorily demonstrated that the development will not increase the flood hazard or flood damage to other properties or adversely affect flood behaviour, in accordance with the requirements of the Floodplain Development Manual - 2005.*

1. BACKGROUND

The site has an area of 9.116 hectares (both lots combined).

The site was previously zoned (at the time of the original determination) 1(a3) Rural Agricultural Protection in accordance with the Hastings Local Environmental Plan 2001, as shown in the following zoning plan:



The site has frontage to Oakes Crescent, Fernbank Creek and is flood prone with high flood risk classification.

The existing subdivision pattern and location of existing development within the immediate locality is shown in the following aerial photo:

Looking After Our Environment



2. DESCRIPTION OF PROPOSAL

Key aspects of the review include the following:

- Amended location of proposed mound and dwelling further to the south.

Refer to attachments at the end of this report which outline the assessment report considered by the Development Assessment Panel on 10 July 2013, the original site plan, proposed plans and current flood report information submitted with the application.

A copy of is provided in the attachments section of this report.

Attachments

1. DA2005 - 0192 DAP Report 10 July 2013

Looking After Our Environment

Item: 11.05

Subject: DA2013-0015 PROPOSED SINGLE DWELLING INCLUDING CLAUSE 4.6 VARIATION TO CLAUSE 4.2A OF THE PORT MACQUARIE_HASTINGS LOCAL ENVIRONMENTAL PLAN 2011 - 21 BLACK SWAN TERRACE, WEST HAVEN

Report Author: Daniel Croft

Property: Lot 213 DP 1042231, 21 Black Swan Terrace, West haven
Applicant: A N & H N Nguyen
Owner: A N & H N Nguyen
Application Date: 22 January 2013
Estimated Cost: \$350,000
Location: West Haven
File no: DA2013-0015
Parcel no: 38832

Alignment with Delivery Program

- 4.9.2 Undertake development assessment in accordance with relevant legislation.
- 4.9.3 Implement and maintain a transparent development assessment process.

RECOMMENDATION

That DA2013-0013 for a proposed single dwelling at Lot 213, DP 1042231, No.21 Black Swan Terrace, West Haven, be determined by granting consent subject to the recommended conditions.

Executive Summary

This report considers a Development Application for a single dwelling including a Clause 4.6 variation to Clause 4.2A (minimum lot size for dwelling) of the *Port Macquarie-Hastings Local Environmental Plan 2011*.

This report provides an assessment of the application in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

Subsequent to exhibition of the application, no submissions have been received.

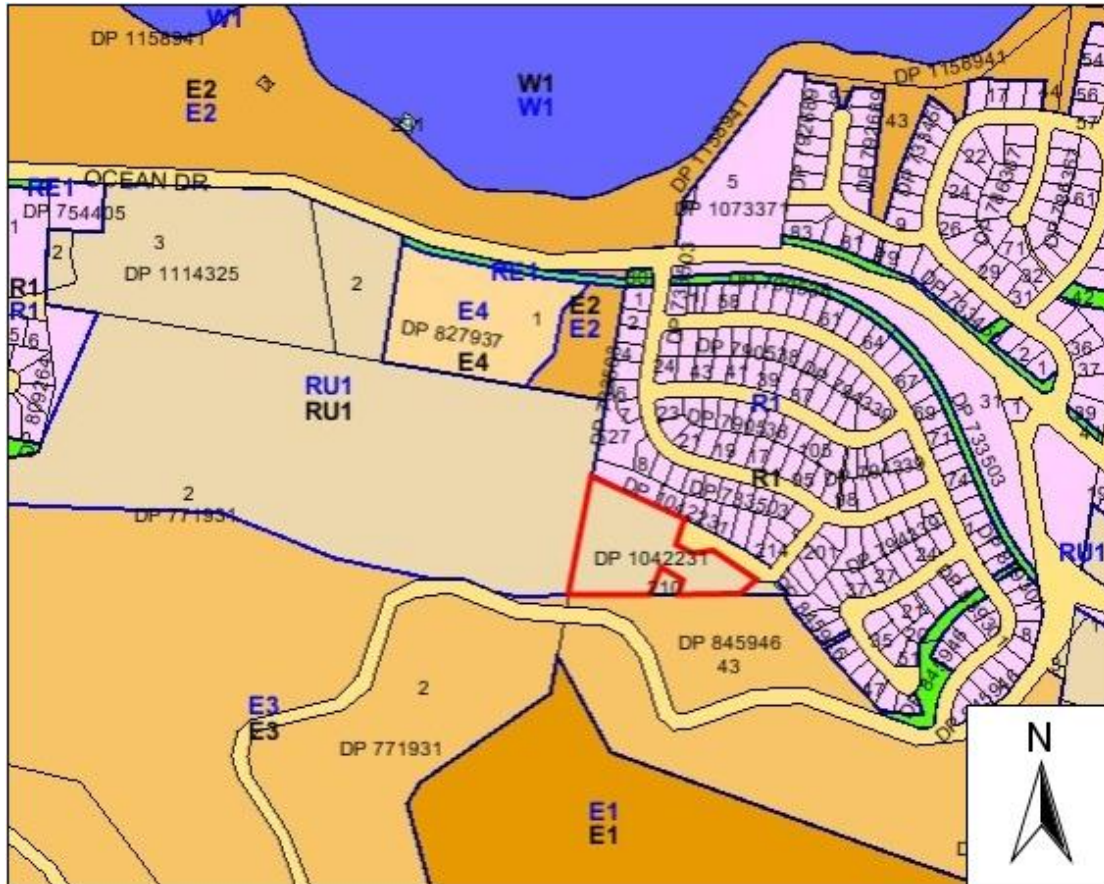
1. BACKGROUND

Existing sites features and surrounding development

Looking After Our Environment

The site has an area of 1.839ha.

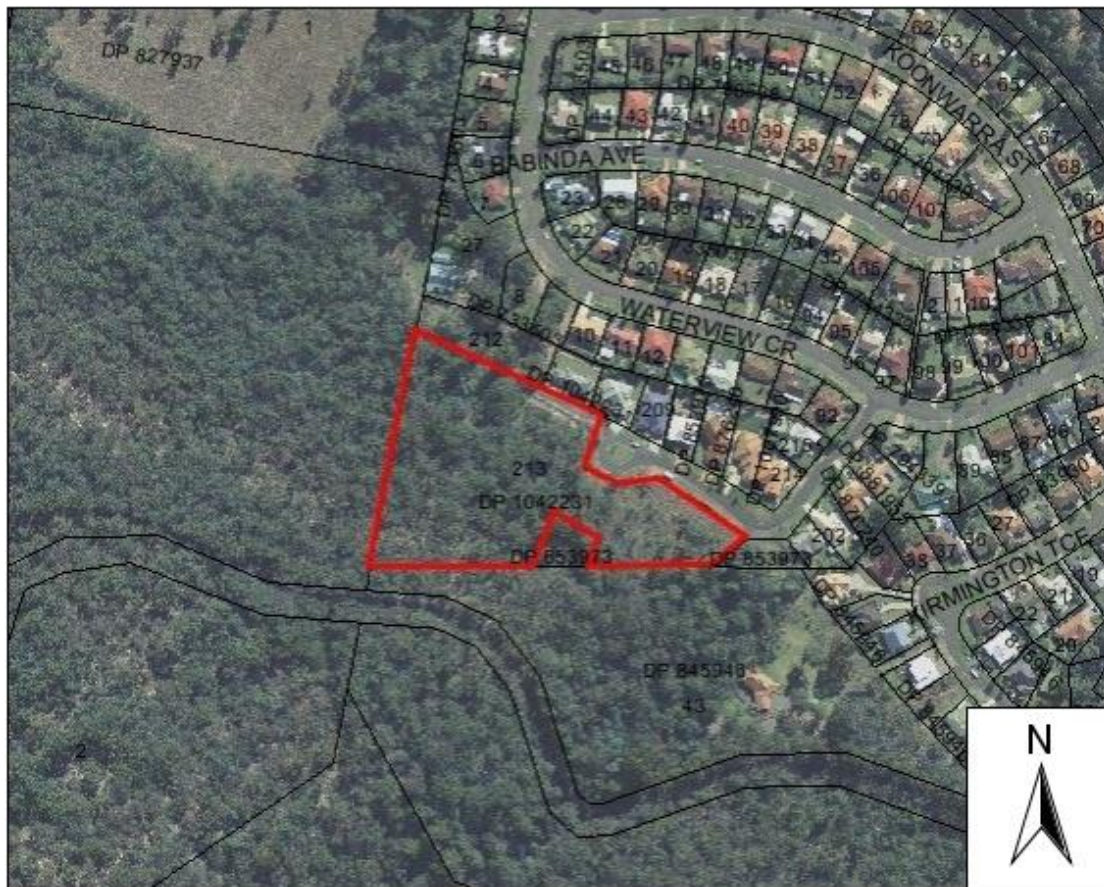
The site is zoned RU1 in accordance with the Port Macquarie-Hastings Local Environmental Plan 2011, as shown in the following zoning plan:



The site is a residue lot remaining from the Waterview Heights residential subdivision at West Haven. The lot is zoned RU1 Primary Production and immediately abuts the R1 General Residential zone as can be seen by the above land zoning map.

The existing subdivision pattern and location of development within the immediate locality is shown in the following aerial photo:

Looking After Our Environment



2. DESCRIPTION OF DEVELOPMENT

Key aspects of the proposal include the following:

- A proposal for a dwelling and SEPP 1 variation for this property was originally approved in 2005 - DA 2005/112. This approval lapsed as no work commenced on the site.
- The current application is essentially a resubmission of the original proposal. The original plans have been submitted with no change other than a slight adjustment to the siting of the dwelling in relation to boundaries.
- Under the Department of Planning and Infrastructure (DOPI) Circulars PS08-003 and 08-014, the application and Clause 4.6 variation needs to be determined by full Council. The application does not have to be referred to DoPI again as they have granted concurrence previously. Council now has the authority to determine the application.

Refer to attachments at the end of this report.

A copy of the assessment report considered by the Development Assessment Panel on 10 July 2013 is also provided in the attachments. At that meeting, the Development Assessment Panel resolved:

That the Development Assessment Panel recommend to Council that DA2013-0013 for a proposed single dwelling at Lot 213, DP 1042231, No.21 Black Swan Terrace, West Haven, be determined by granting consent subject to the recommended conditions.

Looking After Our Environment

Attachments

1. DA2013 - 0015 DAP Report 10 July 20113

Looking After Our Environment

Item: 11.06

Subject: RECOMMENDED ITEM FROM HASTINGS LGA COAST & ESTUARIES
SUB-COMMITTEE MEETING 02/04/2013 - LAKE CATHIE COASTAL
ZONE MANAGEMENT PLAN

Presented by: Development & Environment, Matt Rogers

Alignment with Delivery Program

4.8.1 Carry out relevant studies to determine the likely extent of natural events and the impact of climate change, develop relevant mitigation strategies.

RECOMMENDATION

That the Final Draft Lake Cathie Coastal Zone Management Plan (2013) be placed on public exhibition for six (6) weeks.

Executive Summary

The Hastings LGA Coast & Estuaries Sub-Committee met on 2 April 2013 and reached consensus on Item 06 (attached) in relation to the exhibition of Lake Cathie CZMP, subject to amendment of the report to take account of issues identified by the Committee. An amended report has been received and it is now proposed that the CZMP be exhibited for six (6) weeks.

The recommendation of the Sub-Committee was as follows:

1. *That the Final Draft Lake Cathie Coastal Zone Management Plan (2013) be placed on public exhibition for six (6) weeks subject to amendment of the report to take account of the following issues identified by the Committee:*
 1. *Table 2.2 of the Emergency Management Plan to reference the Lake Cathie Rural Fire Service.*
 2. *Item 1.2 of Table 5 of the Draft Lake Cathie Coastal Zone Management Plan (CZMP) to clarify photogrammetric costs. Amendment to specify \$30,000 for photogrammetric analysis with 2013 for timing.*
 3. *Include a section in the CZMP on valuations and an estimate of lost revenue to Council.*
 4. *Amend section 6.1.1 of the CZMP to include a more general statement about approvals.*
 5. *Include a specific reference to consider the sand migration into Lake Cathie as part of the Environmental Assessment and Approvals process.*
 6. *Expand section 2.2.3, last paragraph of the CZMP to include a comment about previous Management Study (Stage 2) submissions on funding.*
 7. *Include two (2) additional funding scenarios as follows:*
 - a) *PMHC and NSW Government - 50/50 split*

Looking After Our Environment

- b) *PMHC, NSW Government and Commonwealth - 33/33/33 split.*
8. *Amend section 6.3 to more generally describe the powers of PMHC to make special charges or levies on properties benefiting from the coastal protection works. Remove specific details about sections within the Local Government Act (LGA).*

Council's Consultant has amended the CZMP (attached) to take account of the issues identified in the Committee's recommendation. The amended CZMP is considered to comply with the intent of the Committee recommendation and therefore it is proposed that the CZMP be placed on exhibition for six (6) weeks.

Attachments

1. Item 06 Hastings LGA Coast & Estuaries Sub-Committee Meeting 2013 04 02
2. Draft Lake Cathie CZMP