

(FUTURE) PUBLIC EXHIBITION DATES

(Start) to (Finish)

Planning Proposal under section 55 of the EP&A Act

**Port Macquarie-Hastings LEP 2011
(Amendment No 34)**

LEP Miscellaneous Amendments

Ccl ref: PP2014-15.1

DPI ref: PP_2015_PORTM_*

Date: 29/04/2015



Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Reported to Council (section 55)	17/12/2014
Referred to Dept of Planning (sec 56 (1))	29/04/2015
Gateway Panel determination (sec 56 (2))	
Revisions required: Yes / No . Completed	
Public Exhibition (where applicable) (sec 57)	
For Council review (sec 58 (1))	
Adopted by Council for final submission to Dept of Planning (sec 58 (2))	

Council reference: PP2014-15.1

Port Macquarie-Hastings LEP 2011 (Amendment No 34)

Department of Planning & *
Environment reference:

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Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on 29 April 2015 by the undersigned Council delegate:

Signed 

Name Peter Cameron

Position Group Manager Strategic Land Use Planning

2. For section 58 finalisation

This Planning Proposal was endorsed on by Port Macquarie-Hastings Council, or the undersigned Council delegate (delete one):

Signed

Name

Position

Exhibition information *(To be completed prior to Exhibition)*

Content

Proposed amendments to Local Environmental Plans are exhibited in a descriptive form within a "Planning Proposal".

Details of the amendments contained in this **Planning Proposal PP2014-15.1** are contained in the 13 issues described in **Appendix A**. They cover:

- 1 Clause 1.2 Aims of Plan
- 2 Land Use Table - Agriculture and Extractive industries, Zones RU2 & RU3
- 3 Land Use Table - Home-based child care, several zones
- 4 Land Use Table - Signage, Zone RE2
- 5 Clause 5.3 Development near zone boundaries
- 6 Clause 5.9 Preservation of trees or vegetation
- 7 27 John Fraser Place, Port Macquarie - Landcare depot
- 8 Environmental heritage - Hastings Street, Wauchope
- 9 296 Logans Crossing Road, Logans Crossing
- 10 Part 129 Nancy Bird Walton Drive, Kew
- 11 Diamond Drive, Port Macquarie - split zonings
- 12 Lake Street, Laurieton - Zone B4
- 13 Westport Park, Port Macquarie - height limit

The specifics of how the LEP would be amended are described in **Appendix B**. **Appendix C** contains more information relating to Issues where Council has an interest in the affected land. The Planning Proposal contains statements of the intent for changes to the LEP text, but not the specific wording. Further details of the map changes are contained in **Appendices F and G** - location maps identifying the affected land, and the proposed replacement LEP Map sheets respectively.

The "Gateway Determination" from the NSW Department of Planning and Environment, relating to this Planning Proposal, is in **Appendix D**.

Exhibition

The exhibition period is from **start** to **finish**, with the Planning Proposal available for inspection by any person at Council's offices at Port Macquarie, Laurieton and Wauchope, and on www.pmhclisting.com.au.

Submissions

Any person may make a written submission to Council up until the end of the exhibition period. The submission should quote Council's reference - **PP2014-15.1**, and be

emailed to council@pmhc.nsw.gov.au,
lodged through www.pmhclisting.com.au,

or posted to The General Manager,
Port Macquarie-Hastings Council,
PO Box 84,
PORT MACQUARIE NSW 2444.

Note that any submission may be made public.

Further information

Please contact Stephen Nicholson on phone (02) 6581 8111.

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Planning Proposal

This is a Planning Proposal prepared under section 55 of the *Environmental Planning and Assessment Act 1979*, in relation to a proposed amendment to *Port Macquarie-Hastings Local Environmental Plan 2011 (LEP)*. It will be assessed by Port Macquarie-Hastings Council, the NSW Department of Planning and Environment, and (depending on the Gateway determination) used for public participation on the proposed LEP amendment.

Overview

Proposal	It is proposed to make a range of fairly minor amendments to LEP 2011 to rectify anomalies, to update details, and to streamline the consideration of future development by removing unnecessary restrictions.
Property Details	Various properties, as detailed in by Issue in Appendix A .
Applicant Details	Port Macquarie-Hastings Council
Brief history	<i>Port Macquarie-Hastings Local Environmental Plan 2011</i> was prepared broadly as a straight conversion from previous LEPs to the 'template-based' format. Ongoing application of the LEP continues to bring to the attention of Council details which do or could unintentionally hinder the operation of the LEP. Broadly each year Council prepares a LEP which seeks to rectify the latest set of such Issues.
Location	The location of the land affected by Issues 7 to 13 in Appendix A is shown on the Site Identification Maps in Appendix F. Detailed maps are included in Appendix A. Issues 1 to 6 in Appendix A potentially apply more broadly, as described in that Appendix. Except for Issue 4 no maps are provided for these Issues.
Land owner	Numerous, as affected by each Issue.
Council land	Details on Council's interests in several of the Issues contained in this Planning Proposal are provided in Appendix A. Following is summary information. Issue 4 applies to land zoned RE2 Private Recreation, which includes land containing surf lifesaving club buildings on coastal Crown land that is managed by Council. The use of this zone, and the intent of the change of permissibility of advertising is to allow surf lifesaving clubs to raise their income. Indirectly, this reduces the demands on Council's funds. Issue 7 relates to Operational land owned by Council, and facilitates more efficient use of this land. As it adjoins the Port Macquarie Sewerage Treatment Plant, sale is unlikely. Issue 10 enhances the value of land owned by Council at Kew, with the expectation that this will assist Council's finances. Issue 13 applies to Crown land that Council manages. It will simplify processing of some development applications - providing benefits for

both applicants and Council.

Where a Planning Proposal includes matters where the Council has an interest in the proposed change, Councils are to follow [*LEPs and Council Land - Best Practice Guideline*](#), NSW Department of Urban Affairs and Planning, January 1997. **Appendix C** contains a copy of this Guideline.

External references

This Planning Proposal makes reference to a range of documents that can be accessed on the internet. To assist people viewing a paper copy of this document, the internet locations (at the time of writing) for these documents is listed below.

Port Macquarie-Hastings Local Environmental Plan 2011 and Maps

<http://www.legislation.nsw.gov.au/maintop/view/inforce/epi+84+2011+cd+0+N>

Environmental Planning and Assessment Act 1979

<http://www.legislation.nsw.gov.au/viewtop/inforce/act+203+1979+FIRST+0+N/>

State Environmental Planning Policies (SEPPs) - *list relevant to the Port Macquarie-Hastings Council area, with links*

<http://www.pmhc.nsw.gov.au/Building-Planning/Planning-Development-Controls/State-Environmental-Planning-Policies-SEPPs>

Section 117 Ministerial Directions

<http://www.planning.nsw.gov.au/en-us/planningyourlocalarea/localplanningdirections.aspx>

LEPs and Council Land - Best Practice Guideline (also in **Appendix C**)

http://www.planning.nsw.gov.au/planningsystem/pdf/advisorynotes/leps_council_land-best_practice_guideline_jan_1997.pdf

Mid North Coast Regional Strategy and Mid North Coast farmland mapping project

<http://www.planning.nsw.gov.au/en-us/planningyourregion/regionalgrowthplans/northcoast.aspx>

Port Macquarie-Hastings Urban Growth Management Strategy 2011-2031

<http://www.pmhc.nsw.gov.au/Building-Planning/Planning-and-Development-Controls/Land-use-strategies/Local-planning-strategies>

Part 1 - Objectives or Intended Outcomes

The Planning Proposal seeks to rectify anomalies, to update details, and to streamline the consideration of future development by removing unnecessary restrictions within *Port Macquarie-Hastings Local Environmental Plan 2011*. The 13 specific Issues are listed in Appendix A.

Part 2 - Explanation of Provisions

The actual amendments to *Port Macquarie-Hastings Local Environmental Plan 2011* involve both textual and mapping changes.

The changes arising from the Issues described in **Appendix A** are summarised in **Appendix B** in a way that indicates the likely content of an amending LEP. Copies of the proposed new LEP maps referred to in **Appendix B** are contained in **Appendix G**.

Part 3 – Justification

A - Need for the planning proposal.

1. Is the planning proposal a result of any strategic study or report?

This planning proposal is not the result of any strategic study or report.

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

This planning proposal relates to several minor changes to *Port Macquarie-Hastings Local Environmental Plan 2011*, and the most appropriate means of amending an LEP is by using a planning proposal.

B - Relationship to strategic planning framework.

3. Is the planning proposal consistent with the objectives and actions of the Mid North Coast Regional Strategy 2006-31?

The matters addressed by this planning proposal are consistent with both the *Mid North Coast Regional Strategy* and the *Mid North Coast Farmland Mapping Project*.

4. Is the planning proposal consistent with Council's Community Strategic Plan and Urban Growth Management Strategy 2010 – 2031?

The matters addressed by this planning proposal are consistent with both the *Community Strategic Plan* and the *Urban Growth Management Strategy 2010 – 2031*.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The matters addressed by this planning proposal are consistent with all relevant SEPPs.

Issue 2 proposed to make extractive industries permissible with consent under the LEP. This is compatible with *SEPP (Mining, Petroleum Production and Extraction Industries) 2007*.

Issues 2, 3 and 5 are compatible with *SEPP (Rural Lands) 2008*, which will apply to any future development application enabled by the changes proposed in those issues.

Issue 4 will make advertisements permissible within Zone RE2 Private Recreation. There is no conflict with *SEPP No 64 - Advertising and Signage*.

6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The matters addressed by this planning proposal are consistent with all applicable Ministerial Section 117 Directions. Relevant details on some directions are given below.

- ***Direction 1.1 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.

Issue 10 extends the B4 Mixed Use zone at Kew, over land partly car park, and part previously used as a restaurant. It consolidates the B4 zone over the car park and associated land suitable for commercial use. There is no inconsistency.

Issue 12 changes the zoning of some land at Laurieton from B2 Local Centre to B4 Mixed Use. This could facilitate non-commercial uses, but it is located on the fringe of the land zoned B2. This is unlikely to impact on the local opportunities for business employment, given the other land zoned B2 which is currently used for residential purposes.

- ***Direction 1.2 Rural Zones and Direction 1.5 Rural Lands***

The objective of Direction 1.2 is to protect the agricultural production value of rural land.

The objectives of Direction 1.5 are to:

- (a) protect the agricultural production value of rural land,
- (b) facilitate the orderly and economic development of rural lands for rural and related purposes.

Issue 9 rezones some land zoned RU1 Primary Production to R5 Large Lot Residential, while leaving the flood-labile balance of the lot zoned RU1. This does not conflict with the objectives.

Issue 10 rezones some land currently zoned RU1 Rural Production, but the land has been modified and has no current agricultural production value.

- ***Direction 1.3 Mining, Petroleum Production and Extractive Industries***

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.

Issue 2 relates to amending the Land Use Table to allow extractive industries within Zones RU2 Rural Landscape and RU3 Forestry. There is no conflict.

- ***Direction 2.2 Coastal Protection***

The objective of this direction is to implement the principles in the NSW Coastal Policy.

The direction applies to land affected by **Issues 7, 12 and 13**, and potentially **Issues 1 to 6**. There are no inconsistencies.

- ***Direction 2.3 Heritage Conservation***

The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

Issue 8 corrects text and mapping errors for 3 heritage items. There is no inconsistency.

- ***Direction 4.3 Flood Prone Land***

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 *Floodplain Development Manual 2005*, 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.

Issue 9 rezones the flood-free portion of a lot that is largely within the Flood Planning Area.

Issue 12 changes the business zoning applying to land within the Flood Planning Area. And development application will be subject to assessment of flooding in accordance with LEP 2011 clause 7.2 Flood planning.

These issues are consistent.

- ***Direction 4.4 Planning for Bushfire Protection***

The objectives of this direction are:

- (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
- (b) to encourage sound management of bush fire prone areas.

Issue 3 relates to home-based child care that cannot be exempt development under the Codes SEPP due to a bush fire risk. For the 10 relevant zones, home-based child care is still permissible without consent under the LEP, irrespective of that bush-fire risk. The proposed action is to make home-based child care permissible only with consent for those zones. This allows for a risk-based assessment of whether consent for the proposal is appropriate given the characteristics of the specific site and the bushfire hazard. This is consistent with the objectives.

The other Issues do not have any direct relationship with bushfire protection - if this is a consideration for a development application, then it will be considered, and the actions proposed for those Issues have no effect on that consideration.

- ***Direction 6.3 Site Specific Provisions***

The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.

The preferred actions to make a development permissible are:

- amend the Land Use Table to make that use permissible in that zone,
- change the Zone applying to that land, or
- allow the land use (without imposing any extra development standards or requirements).

Issue 7 proposes to introduce site-specific measures to make permissible an animal pound and a depot for Landcare operations on Council-owned land adjoining a sewerage treatment plant. There is no clear defined land use term in the LEP Dictionary for the pound, nor does there appear to be a suitable zone that permits both uses.

In this case it is proposed to use the third option, and make these uses permissible using:

- clause 2.5 Additional permitted uses for particular land,
- Schedule 1 Additional permitted uses, and
- the Additional Permitted Uses Map.

This action is consistent with the objective.

C - Environmental, social and economic impact.

7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

There is no likelihood that the matters addressed by this planning proposal would have any such adverse effect.

8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The matters addressed by this planning proposal are unlikely to have any adverse environmental effects.

While **Issue 3** will continue to allow home-based child care within bushfire prone land, it will now be subject to appropriate assessment prior to any consent being granted.

Issue 6 will allow Council to have the opportunity to determine if some types of native vegetation clearing should be permitted in Zones R5, E2, E3 and E4.

Issue 9 involves partial rezoning to R5 Large Lot Residential, but excludes the area within the Flood Planning Area.

Issue 12 involves a change of business zone for land within the flood planning area - any proposed development will still be subject to assessment of its suitability.

9. How has the planning proposal adequately addressed any social and economic effects?

The matters addressed by this planning proposal have negligible social and economic effects.

D - State and Commonwealth interests.

10. Is there adequate public infrastructure for the planning proposal?

There is adequate public infrastructure for the matters addressed by this planning proposal.

11. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation with public authorities is relevant for the following Issues (as listed in Appendix A):

Issue No	Public Authorities (and comments)
2	Forestry Corporation of NSW
3	NSW Rural Fire Service
4 & 13	Crown Lands (NSW Trade & Investment)

At this stage consultation has not occurred, and therefore there are no comments.

Part 4 – Mapping

A - Affected land

The land directly affected by the planning proposal is formally shown on the Site Identification Maps contained in **Appendix F**, except in relation to Issues 1 to 6 described in **Appendix A**, as those Issues apply on a general or Land Use Zone basis.

More detail of the affected land for **Issues 7 to 13** is contained in **Appendix A**. Map extracts show the current and the proposed mapping provisions for each issue. To view the (current) legal LEP maps, go to the NSW Legislation website - <http://www.legislation.nsw.gov.au/mapindex?type=epi&year=2011&no=84>.

B - Draft LEP maps

If the Planning Proposal is approved then the current LEP map sheets will be updated by the changes listed in Part B of **Appendix B**. The proposed map sheets are included in **Appendix G**.

Note that while these maps may appear like the legal LEP maps, the only LEP maps that have any legal status are those listed and viewable on the NSW Legislation website. The map name (at the bottom of the map legend), including the date (“YYYYMMDD”) at the end, is important. The date represents the date that version of the map was prepared, and not the date that it took effect (if at all).

If the Planning Proposal is approved then the final maps may be updated from the maps forming part of this Planning Proposal to include:

- any changes made by Council,
- formatting changes, and
- any applicable updates arising from other concurrent LEP amendments.

Part 5 – Community Consultation

The proposal is considered to be a low impact proposal, as it:

- is consistent with the pattern of surrounding land use zones and/or land uses,
- is consistent with the strategic planning framework,
- presents no issues with regard to infrastructure servicing,
- is not a principal LEP, and
- does not reclassify public land.

On this basis a 14 day public exhibition period is appropriate.

It is noted that although the proposal affects the LEP provisions specifically relating to land in which Council has an interest, this does not require a longer exhibition period.

Consultation in accordance with the Council's Public Consultation Policy is proposed for the site. The proposed consultation strategy in conjunction with the public exhibition for this proposal will be:

- Notification in a locally circulating newspaper.
- Notification on Council's website.
- Written notification to affected and appropriate adjoining landowners.

Part 6 – Project Timeline

This project timeline is based on anticipated dates and timeframes, though there can be unexpected delays. It is assumed that Council does have delegation to carry out certain plan-making functions. Delegation would be exercised by Council's General Manager or the Director of Development and Environmental Services.

Anticipated dates	2015												2016					
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J
Commencement (date of Gateway determination)					X													
Timeframe for the completion of required technical information						X												
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)						X												
Commencement and completion dates for public exhibition period							X											
Dates for public hearing (if required)								X										
Timeframe for consideration of submissions								X										
Timeframe for the consideration of a proposal post exhibition									X									
Date of submission to the department to finalise the LEP										?								
Date Council will make the plan (if delegated)											X							
Date Council will forward to the department for notification.											X							

Appendix A – Details of Issues being addressed

Following are details of the 13 separate issues identified for amendment in this Planning Proposal, as reported to Council on 11 December 2014.

The amendments proposed are described and illustrated by the text and maps, though the key details are within the shaded text under the heading *Proposal*.

- Issue 1: Clause 1.2 Aims of Plan
- Issue 2: Land Use Table - Agriculture and Extractive industries, Zones RU2 & RU3
- Issue 3: Land Use Table - Home-based child care, several zones
- Issue 4: Land Use Table - Signage, Zone RE2
- Issue 5: Clause 5.3 Development near zone boundaries
- Issue 6: Clause 5.9 Preservation of trees or vegetation
- Issue 7: 27 John Fraser Place, Port Macquarie - Landcare depot
- Issue 8: Environmental heritage - Hastings Street, Wauchope
- Issue 9: 296 Logans Crossing Road, Logans Crossing
- Issue 10: Part 129 Nancy Bird Walton Drive, Kew
- Issue 11: Diamond Drive, Port Macquarie - split zonings
- Issue 12: Lake Street, Laurieton - Zone B4
- Issue 13: Westport Park, Port Macquarie - height limit

Issue 1: Clause 1.2 Aims of Plan

Subdivision of land ideally should provide for connectivity with adjoining land to provide efficient and effective movement routes and to avoid intersections which are unnecessary or poorly located. Preferred road networks may be identified in adopted Structure Plans, or in Council's Development Control Plan (DCP), or in some cases may not be formally identified.

Section 79C of the Environmental Planning and Assessment Act 1979 (EPA Act) lists the matters to be considered in determining development applications. These include (where relevant) the provisions of the LEP and the Development Control Plan (DCP). The provisions in DCPs have to be related to the LEP aims, to LEP Zone objectives, or to facilitating development that is permissible.

To enable more weight to be given to movement corridors and connectivity in assessing development applications, it is proposed to add a further aim to the LEP.

Land affected

This change potentially affects all land within the Council area, though is only relevant when a development application under LEP 2011 is being assessed.

Proposal:

That the following paragraphs be added into clause 1.2 (2):

- (m) to provide effective and efficient connectivity and movement corridors within and between subdivisions.

Note: The wording is indicative, and is subject to final drafting by the Parliamentary Counsel's Office.

Issue 2: Land Use Table - Agriculture and Extractive industries, Zones RU2 & RU3

While Extensive agriculture is permitted without consent in Zones RU1 Primary Production and RU2 Rural Landscape, other forms of Agriculture require consent. Additionally, Agriculture is prohibited within Zone RU3 Forestry.

Extractive industries are permitted with consent in Zone RU1, but prohibited in Zones RU2 and RU3. This is complicated by [SEPP \(Mining, Petroleum Production and Extractive Industries\) 2007](#), which in clause 7 (3) permits with consent Extractive industries on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent) in another planning instrument.

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

Discussions have been held with Forestry Corporation of NSW and a proponent for a proposed quarry within State Forest land. Permissibility could be simplified by making either Agriculture or Extractive industries permissible with consent in Zone RU3. It is proposed to make changes that do not require the SEPP to determine permissibility.

Land affected

This change potentially affects all land within Zones RU1 and RU3.

Proposal:

That in the Land Use Table:

- a) for Zones RU2 Rural Landscape and RU3 Forestry - Extractive industries be listed as Permitted with consent, and
- b) for Zone RU3 Forestry - Agriculture be listed as Permitted with consent.

Issue 3: Land Use Table - Home-based child care, several zones

Under clauses 2.45 & 2.46 of [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#) (the Codes SEPP), Home-based child care is exempt development unless there is a bush fire risk. In such cases, then the provisions of the LEP apply.

The relevant definition is:

home-based child care means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and that satisfies the following conditions:

- (a) the service is licensed within the meaning of the [Children and Young Persons \(Care and Protection\) Act 1998](#),
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

Home-based child care is currently permissible with consent in several zones. What is more relevant is that it is permissible without consent in LEP 2011 in the following zones:

- RU5 Village
- R1 General Residential
- R2 Low Density Residential
- R3 Medium Density Residential
- R4 High Density Residential
- R5 Large Lot Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B3 Commercial Core
- B4 Mixed Use

If the relevant site is bush fire prone land, then it is undesirable that Home-based child care can proceed without consent. Where there is a bush fire risk only after a development assessment of the nature of that risk can it be ascertained if the development is suitable for the site. For example, if the bush fire risk only applies to a totally different portion of the property, and there is no concern about evacuation in a fire emergency.

Requiring consent in the LEP will not override the Codes SEPP, but only apply when the Home-based child care does not meet the criteria to be exempt development.

Land affected

This change potentially affects all land within the zones listed.

Proposal:

That in the Land Use Table for Zones RU5, R1, R2, R3, R4, R5, B1, B2, B3 and B4 - Home-based child care be listed as Permitted with consent.

Issue 4: Land Use Table - Signage, Zone RE2

Within the RE2 Private Recreation zone Building identification signs and Business identification signs are permitted with consent - although more often are allowed as exempt development. Other signage (i.e. advertising) is prohibited.

There have been requests from local surf lifesaving clubs to have advertising on their premises. These clubs are on land zoned Zone RE2.

Zone RE2 also applies to other land. In principle it is considered reasonable to permit advertising with consent in Zone RE2 - the consent process allows for consideration of impacts of any proposal.

Land affected

This change potentially affects all land within Zone RE2.

Council has a specific interest in land to which this Issue applies - further information is provided below.

Proposal:

That in the Land Use Table for Zone RE2 Private Recreation - Signage be listed as Permitted with consent.

Council's interest in land affected

Appendix C contains a copy of *LEPs and Council land - Best Practice Guideline*, issued in January 1997 by the then NSW Department of Urban Affairs and Planning (DUAP).

Councils are still advised to follow this.

The RE2 Private Recreation zone applies to the local surf lifesaving club buildings, which are on Crown land that Council manages. It is appropriate to provide more information on this - initially in general terms, and then on each location.

General (common) details	
Why is the draft LEP being prepared?	To allow surf lifesaving clubs to access another source of revenue.
What prompted preparation of the draft LEP?	Request from a surf lifesaving club.
How the draft plan will affect planning controls?	The Land Use Table for Zone RE2 Private Recreation will be amended to list Signage as permissible with consent.
Is the draft LEP being prepared to permit a particular proposal? If so, any available details of the proposal should be included in the exhibition	- Partly yes - to allow advertising signage on surf lifesaving club buildings in several locations; and - Partly no - no specific proposal has been submitted to date. Note it is unlikely that there would be public notification of such development applications prior to determination.
What actual physical or operational changes may result?	None, other than advertising signs on the external walls.
The financial implications of a	None for Council, other than the costs of assessing

change in planning controls.	relevant development applications. Indirectly it may reduce demands on Council's funds. The surf lifesaving clubs will manage the advertising and collect the revenue.
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Property	Port Macquarie: Lot 7065 DP 10600070, Reserve 82916, Town Beach, William Street - area zoned RE2 Private Recreation
Map	
Nature of Council's interest in the land	Appointed as Trust Manager by the Crown
When Council first acquired an interest in. the land	Several decades ago
Why Council acquired an interest in the land	Appointed by the Crown
How Council acquired its interest in the land?	See above
For land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement	Not applicable
If an agreement for lease or sale of the land has been made, basic details of the agreement.	Surf lifesaving club lease currently being prepared

Property	Port Macquarie: Lot 7052 DO 1121282, Reserve 610024, Flynn's Beach, Tuppenny Road, via Pacific Drive - area zoned RE2 Private Recreation
Map	
Nature of Council's interest in the land	Council is appointed Trust Manager of this Crown land
When Council first acquired an interest in the land	Appointed as Trust Manager several years ago
Why Council acquired an interest in the land	Appointed by the Crown
How Council acquired its interest in the land?	See above
For land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement	Not applicable
If an agreement for lease or sale of the land has been made, basic details of the agreement.	Lease negotiations to be carried out within the next 12 months for that section of the building used by Marine Rescue and kiosk.

Property	Port Macquarie: Lot 7074 DP 1052855, Reserve 88609, Lighthouse Beach, Matthew Flinders Drive - area zoned RE2 Private Recreation
Map	
Nature of Council's interest in the land	Council is appointed Trust Manager of this Crown land
When Council first acquired an interest in. the land	Appointed as Trust Manager several years ago
Why Council acquired an interest in the land	Appointed by the Crown
How Council acquired its interest in the land?	See above
For land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement	Not applicable
If an agreement for lease or sale of the land has been made, basic details of the agreement.	Surf Club lease currently being prepared

Property	Bonny Hills: Lot 2 DP 1171577, Rainbow Beach, Beach Street - area zoned RE2 Private Recreation
Map	
Nature of Council's interest in the land	Council is appointed Trust Manager of this Crown land
When Council first acquired an interest in. the land	Appointed as Trust Manager several years ago
Why Council acquired an interest in the land	Appointed by the Crown
How Council acquired its interest in the land?	See above
For land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement	Not applicable
If an agreement for lease or sale of the land has been made, basic details of the agreement.	Surf Club lease currently being prepared. Restaurant area subject to a 15 year lease. Residential flat vacant

Property	North Haven: Lot 7006 DP 1026384, Reserve 80643 (and beachfront Crown reserve) Grants Beach, The Parade - area zoned RE2 Private Recreation
Map	
Nature of Council's interest in the land	Appointed Trust Manager by Crown lands
When Council first acquired an interest in. the land	Several decades ago
Why Council acquired an interest in the land	Appointed by Crown
How Council acquired its interest in the land?	See above
For land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement	Not applicable
If an agreement for lease or sale of the land has been made, basic details of the agreement.	Surf Club lease currently being prepared. Kiosk lease also being considered

Issue 5: Clause 5.3 Development near zone boundaries

The objective of clause 5.2 "... is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zone."

Council has the discretion over the details of the distances that apply, as contained in subclause (2), which currently states:

... The relevant distance is:

- (a) 100 metres from any zone boundary shared with Zone RU1 Primary Production, RU2 Rural Landscape or RU3 Forestry, or
- (b) 20 metres from any other zone boundary.

Subject to various requirements and exclusions, this clause allows for development to extend past zone boundaries, irrespective of any prohibition that may apply. Normally this would only be relevant where zone boundaries do not align with property boundaries, which mostly happens in rural areas and in urban release areas. Broadly the map scales used are 1:20,000 for maps containing urban areas, with 1:80,000 for the balance (i.e. rural only).

In practice, the wording of the existing clause has been found to be ambiguous and improved wording is proposed. For example, the existing clause could be interpreted to effectively extend a residential zone by 100m where it adjoins a rural zone. This was not the intention of the clause and it is proposed to retain the potential for greater variation (i.e. 100m) where only rural zones are involved.

Land affected

This change potentially affects all land within the Council area, though is only relevant when a development application in proximity to (RU1, RU2 or RU3) zone boundaries under LEP 2011 is being assessed.

Proposal:

That clause 5.3 (2) be revised to state:

- (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is:
 - (a) 100 metres for land involving only boundaries between Zones RU1 Primary Production, RU2 Rural Landscape or RU3 Forestry, or
 - (b) 20 metres in all other cases.

Note: The wording is indicative, and is subject to final drafting by the Parliamentary Counsel's Office.

Issue 6: Clause 5.9 Preservation of trees or vegetation

The objective of clause 5.9 "... is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation." It applies to species or kinds of trees or other vegetation that are prescribed for the purposes of the clause by Council's Development Control Plan 2013 (DCP).

Various exclusions in the clause mean that generally it only applies to urban areas. The wording of the clause cannot be altered by Council, other than whether or not to adopt subclause (9), which states:

Subclause (8) (a) (ii) does not apply in relation to land in Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.

Subclause (9) is not adopted at present. Subclause (8) (a) (ii) prevents the clause applying to the clearing of native vegetation that is permitted under Division 2 or 3 of Part 3 of the *Native Vegetation Act 2003*. These Divisions allow clearing of vegetation without assessment (but subject to some restrictions):

- (a) under Division 2 Permitted Clearing - clearing of native vegetation that is only regrowth or that comprises only groundcover (subject to restrictions), or
- (b) under Division 3 Permitted activities - routine agriculture management activities (RAMA), continuation of existing farming activities, and sustainable grazing.

The native vegetation within these four zones can contain habitat, or have landscape significance, and it would be desirable for site-specific assessment proposals for such clearing of vegetation.

Land affected

This change potentially affects all land within Zones R5, E2, E3 or E4.

Proposal:

That LEP 2011 adopt clause 5.9 (9).

Issue 7: 27 John Fraser Place, Port Macquarie - Landcare depot

No 27 John Fraser Place, Port Macquarie (outlined in red on the map) is owned by Council (specifically the Sewer Fund), and is classified as Operational Land under the [Local Government Act 1993](#). It currently contains the Port Macquarie animal pound.

The local Landcare group have been seeking a location for a depot for storing their equipment and vehicles, and Council is agreeable to Landcare using part of this lot for this purpose. The current Zone SP2 Infrastructure (Public Utility Undertaking) does not permit this use (nor the animal pound), and this proposal will allow these uses to be approved and (for the pound) to be expanded.

Land affected and proposed map changes

The changes relate to No 27 John Fraser Place, Port Macquarie, as shown on the map extract adjoining. The proposed change will require creation of Additional Permissible Uses Map sheet APU_013G - this will require updates to the Map index on the current 3 APU Map sheets.

Council has a specific interest in land to which this Issue applies - further information is provided below.

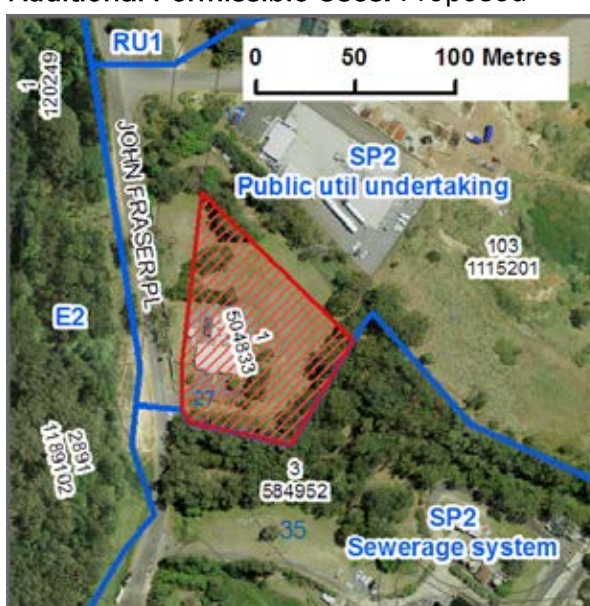
Proposal:

That for Lot 1 DP 504833, No 27 John Fraser Place, Port Macquarie, the LEP be amended to allow an animal pound and a depot as additional permitted uses.

Council's interest in land affected

Appendix C contains a copy of *LEPs and Council land - Best Practice Guideline*, issued in January 1997 by the then NSW Department of Urban Affairs and Planning (DUAP). Councils are still advised to follow this.

Additional Permissible Uses: Proposed



The red hatching identifies Lot 1, and the area to which this Issue relates.

Land Use Zones

E2 Environmental Conservation
RU1 Primary Production
SP2 Infrastructure - purpose as shown

General details	
Why is the draft LEP being prepared?	To permit use of the land for an animal pound and a Landcare depot
What prompted preparation of the draft LEP?	Request from Landcare.
How the draft plan will affect planning controls?	The subject land will be identified on the Additional Permitted Uses Map , and have relevant provisions inserted into Schedule 1 Additional permitted uses to identify that consent can be granted for an animal pound and a Landcare depot on that land.
Is the draft LEP being prepared	Partly yes - to permit a Landcare depot on the land;

to permit a particular proposal? If so, any available details of the proposal should be included in the exhibition	and • Partly no - no proposal has been submitted to date. Note, it is unlikely that there would be public notification of a development application prior to determination.
What actual physical or operational changes may result?	None.
The financial implications of a change in planning controls.	None. The land is within the buffer to the Port Macquarie Sewerage Treatment Plant, and sale is unlikely.

Property	Lot 1 DP 504833, 27 John Fraser Place, Port Macquarie
Nature of Council's interest in the land	Council owns the land freehold
When Council first acquired an interest in. the land	Several decades ago.
Why Council acquired an interest in the land	For sewerage infrastructure purposes
How Council acquired its interest in the land?	Purchase
For land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement	Not applicable
If an agreement for lease or sale of the land has been made, basic details of the agreement.	Landcare activity currently subject to a 5 year Community lease.

Issue 8: Environmental heritage - Hastings Street, Wauchope

The provisions of clause 5.10 Heritage conservation apply to land identified in Schedule 5 to the LEP and also shown on the Heritage Map. For three adjoining heritage items at Wauchope, there are some errors in property addresses and descriptions, and in the mapping:

- Item I045 Former police dwelling house - the address has the wrong primary street frontage.
- Item I048 Courthouse building (excluding additions) and Item I045 Former police dwelling house - are both parts of the one property, which has an updated property description, and their boundaries on the Heritage Map are wrong - the red hatched areas on the map shows where the boundaries should be.
- Item I091 Uniting Church building (excluding extensions) - the address is incorrect.

Land affected

This change affects the following properties at Wauchope:

- 39-41 Hastings Street (corner Young Street), and
- 41A Hastings Street.

The location and changes to Heritage Map sheet HER_010B are shown on the map extract below. Background image is provided for reference only.



Changes to Schedule 5 Environmental heritage

The content for these items in Part 1 Heritage Items of Schedule 5 Environmental heritage is:

Currently (excluding other items between them)

Suburb	Item name	Address	Property description	Significance	Item no
Wauchope	Courthouse building (excluding additions)	41 Hastings Street	Part Lot 2, Book 7605 No 3070	Local	I048
Wauchope	Uniting Church building (excluding extensions)	41 Hastings Street	Lot 1, DP 797394	Local	I091
.....					
Wauchope	Former police dwelling house	16 Young Street (corner Hastings Street)	Part Lot 2, Book 7605 No 3070	Local	I045

Proposed (in updated address order)

Suburb	Item name	Address	Property description	Significance	Item no
Wauchope	Former police dwelling house	39 Hastings Street (corner Young Street)	Part Lot 1, DP 1157036	Local	I045
Wauchope	Courthouse building (excluding additions)	41 Hastings Street	Part Lot 1, DP 1157036	Local	I048
Wauchope	Uniting Church building (excluding extensions)	41A Hastings Street	Lot 1, DP 797394	Local	I091

Proposal:

- 1) That in relation to Items I045, I048 and I091 Schedule 5 be updated as follows:
 - a) I045 Address - 39 Hastings Street (corner Young Street)
 - b) I045 Property description - Part Lot 1 DP 1157036
 - c) I048 Property description - Part Lot 1 DP 1157036
 - d) I091 Address - 41A Hastings Street
- 2) That in relation to Items I045 and I048 the Heritage Map be updated as illustrated in this planning proposal.

Issue 9: 296 Logans Crossing Road, Logans Crossing

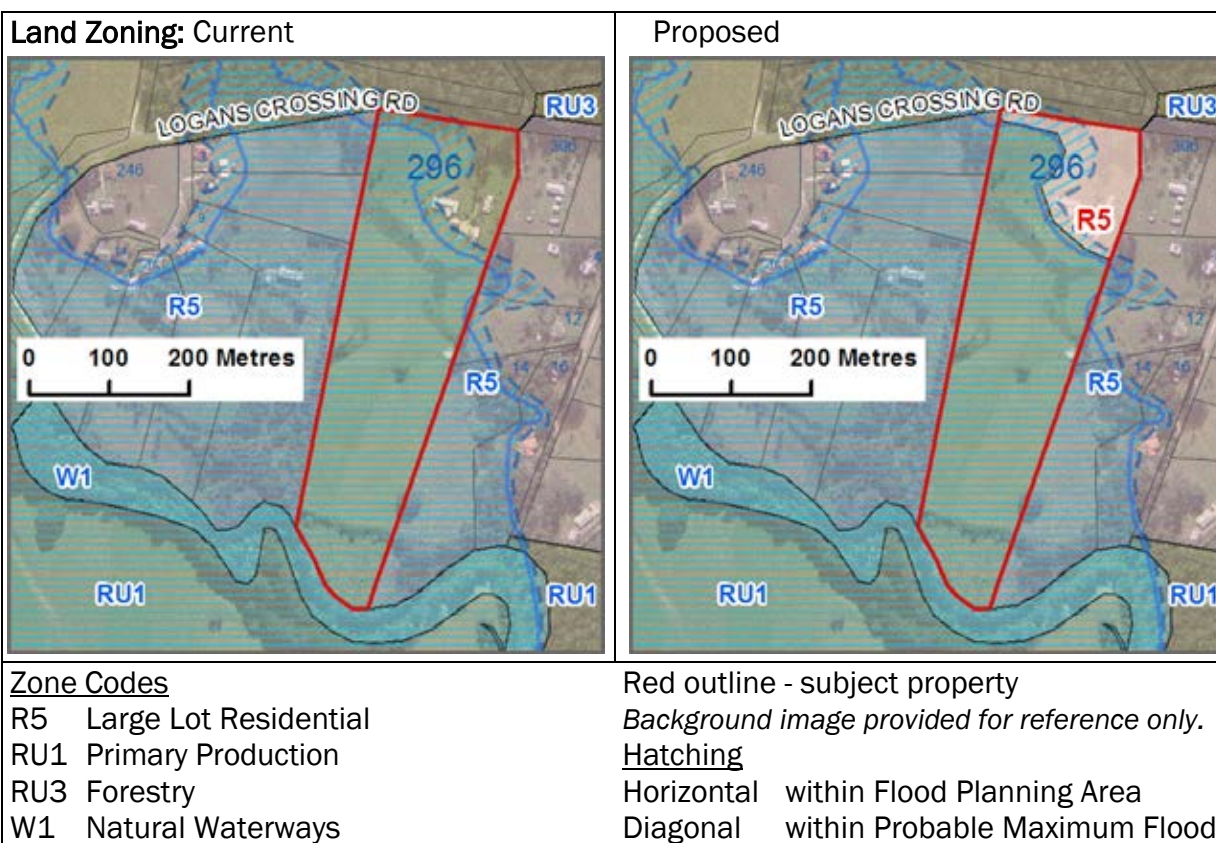
No 296 Logans Crossing Road, Logans Crossing (outlined in red on the map) is zoned R1 Primary Production, and is located between land zoned R5 Large Lot Residential. The 9.6 ha lot contains two dwellings on the flood-free portion adjoining Logans Crossing Road, with one dwelling being unauthorised. Enforcement action is suspended pending consideration of this proposed zoning change.

It is proposed to rezone the northern 2 hectare flood-free area to R5 Large Lot Residential to allow rural residential development on this part of the property. This is consistent with the adjoining land to the east and west and would allow consent to be granted to the secondary dwelling.

No change is proposed to the minimum lot size of 40 ha - this will preclude possible subdivision of largely flood-labile land.

Land affected and proposed map changes

The changes relate to 296 Logans Crossing Road, Logans Crossing. The proposed change to the Land Zoning Map sheet LZN_011A is shown in the extract below. Background image is provided for reference only.



Proposal:

That for Lot 2 DP 599599 No 296 Logans Crossing Road, Logans Crossing the Land Zoning Map be amended to apply Zone R5 Large Lot Residential to the flood-free area.

Issue 10: Part 129 Nancy Bird Walton Drive, Kew

Lot 2 DP 1171190 No 129 Nancy Bird Walton Drive, Kew (outlined by the dashed black line on map below) is owned by Council, and is classified as Operational Land under the *Local Government Act 1993*. It is mostly zoned RU1 Primary Production.

The area outlined in red on the map extracts below contains a public toilet and part of a carpark in conjunction with Nos 131 and 133 Nancy Bird Walton Drive to the north, which are also owned by Council, and which are already zoned B4. The area outlined in red previously contained the former Steaks on Kew restaurant building.

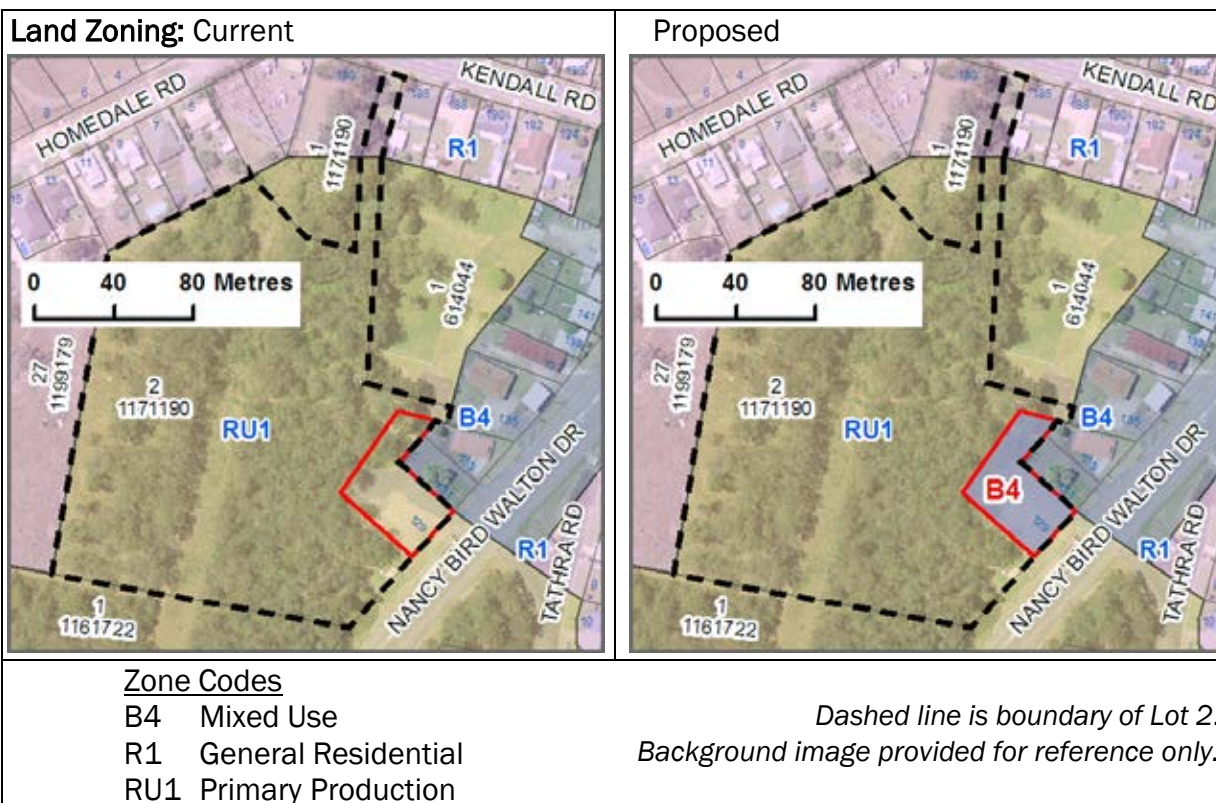
Council's Property Section is exploring options for future use of this land and the adjoining two lots. The area outlined in red is similar to those lots, and could be included in a combined redevelopment.

To facilitate future use of the site of the former restaurant building it would be appropriate to rezone this part of Lot 2 to Zone B4 Mixed Use, and make corresponding changes to associated LEP map series.

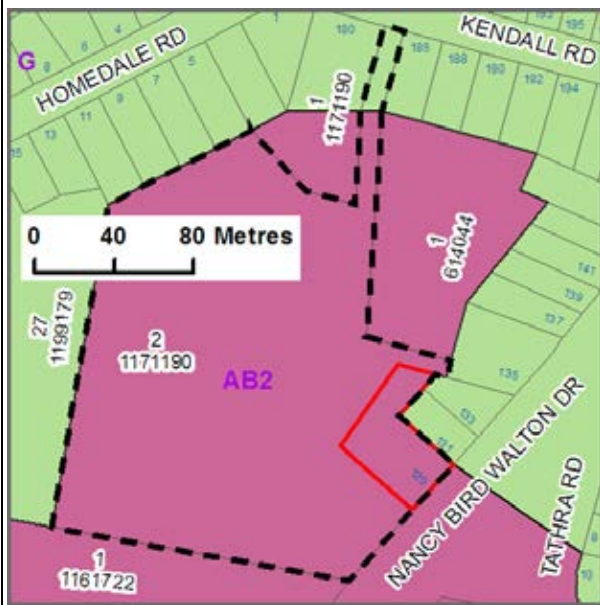
Land affected and proposed map changes

The changes relate to part of 129 Nancy Bird Walton Drive, Kew. The proposed changes to the Land Zoning Map sheet LZN_011B, Lot Size Map sheet LSZ_011B, Floor Space Ratio Map sheet FSR_011B and Height of Buildings Map sheet HOB_011B are shown in the extracts below.

Council has a specific interest in land to which this Issue applies - further information is provided below.



Lot Size: Current



Proposed

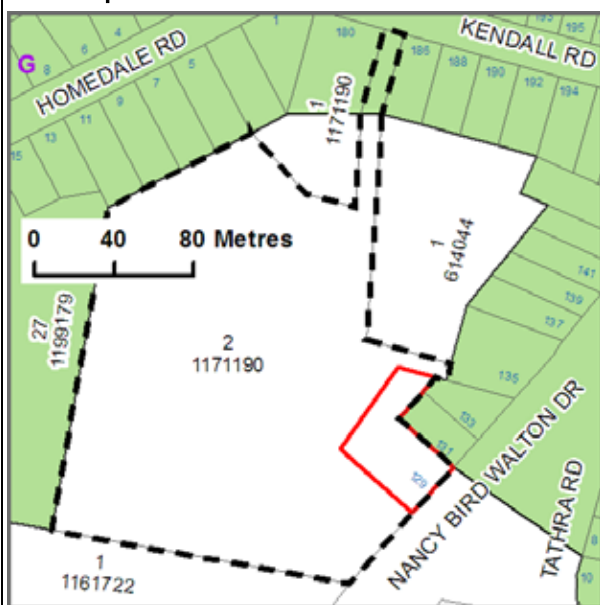


Minimum Lot Size Codes

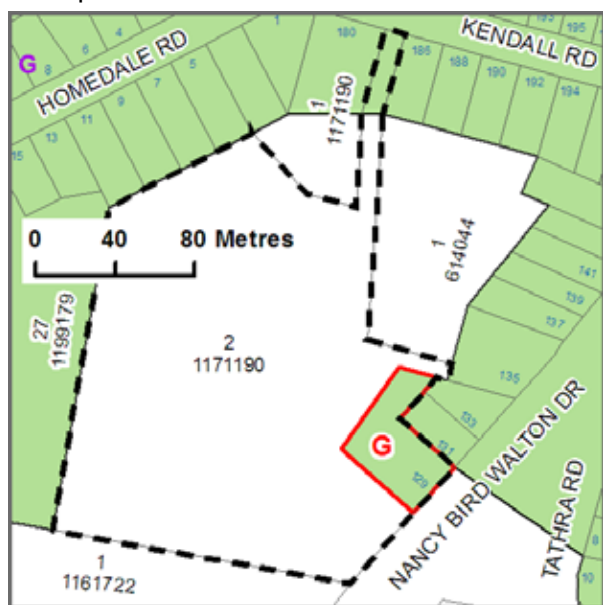
G 450 sq metres
 AB2 40 hectares

Dashed line is boundary of Lot 2

Floor Space Ratio: Current



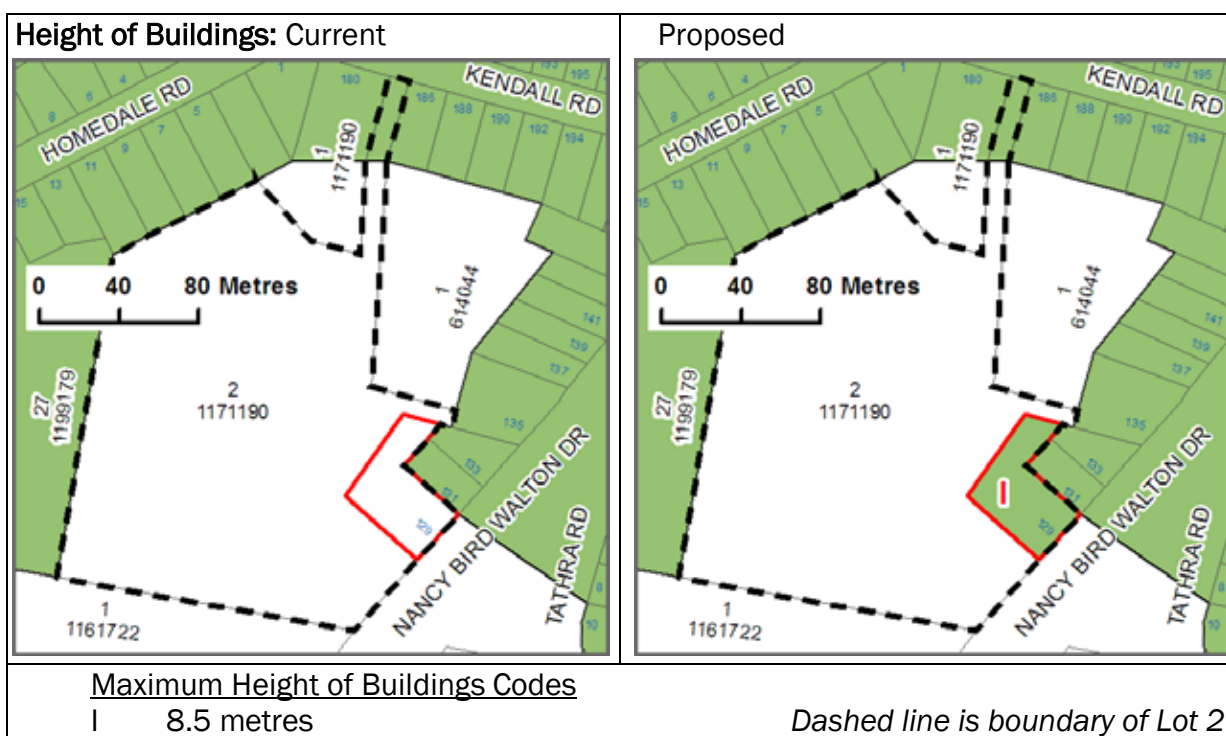
Proposed



Maximum Floor Space Codes

G 0.65:1

Dashed line is boundary of Lot 2



Proposal:

That for part of the eastern frontage (as identified in this planning proposal) of Lot 2 DP 1171190 No 129 Nancy Bird Walton Drive, Kew:

- the Land Zoning Map be amended to apply Zone B4 Mixed Use, and
- the Lot Size Map be amended to a minimum lot size of 450 sq m,
- the Floor Space Ratio Map be amended to apply a maximum FSR of 0.65:1, and
- the Height of Buildings Map be amended to apply a maximum height of 8.5 m.

Council's interest in land affected

Appendix C contains a copy of *LEPs and Council land - Best Practice Guideline*, issued in January 1997 by the then NSW Department of Urban Affairs and Planning (DUAP). Councils are still advised to follow this.

General details	
Why is the draft LEP being prepared?	To amend the planning controls applying to vacant land that was previously used for commercial purposes.
What prompted preparation of the draft LEP?	Council seeks to dispose of this surplus property, which contains part of a car park and a vacant area that previously contained a commercial building.
How the draft plan will affect planning controls?	For the subject portion of Lot 2 the LEP maps will be amended: - Land Zoning Map - to B4 Mixed Use - Lot Size Map - to G (450 sq m) - Floor Space Ratio Map - to G (0.65:1) - Height of Buildings Map - to I (8.5 m).
Is the draft LEP being prepared	No immediate proposal other than to attract

to permit a particular proposal? If so, any available details of the proposal should be included in the exhibition	commercial use of the area in the future e.g. enquiries regarding a medical centre. This type of use is not permitted under the current zoning
What actual physical or operational changes may result?	None decided. The first step will probably be subdivision to excise the subject portion from the balance which will remain zoned RU1 Primary Production.
The financial implications of a change in planning controls.	Value of land would be increased from the current value as a rural property. It also increases the value of the adjoining land parcel owned by Council and containing the balance of the car park.

Property	Part Lot 2 DP 1171190, 129 Nancy Bird Walton Drive, Kew
Nature of Council's interest in the land	Freehold title
When Council first acquired an interest in. the land	Unknown but several decades ago
Why Council acquired an interest in the land	Thought to be for tourist activities
How Council acquired its interest in the land?	Believed to be purchased
For land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement	No agreement entered into
If an agreement for lease or sale of the land has been made, basic details of the agreement.	No agreement has been made.

Issue 11: Diamond Drive, Port Macquarie - split zonings

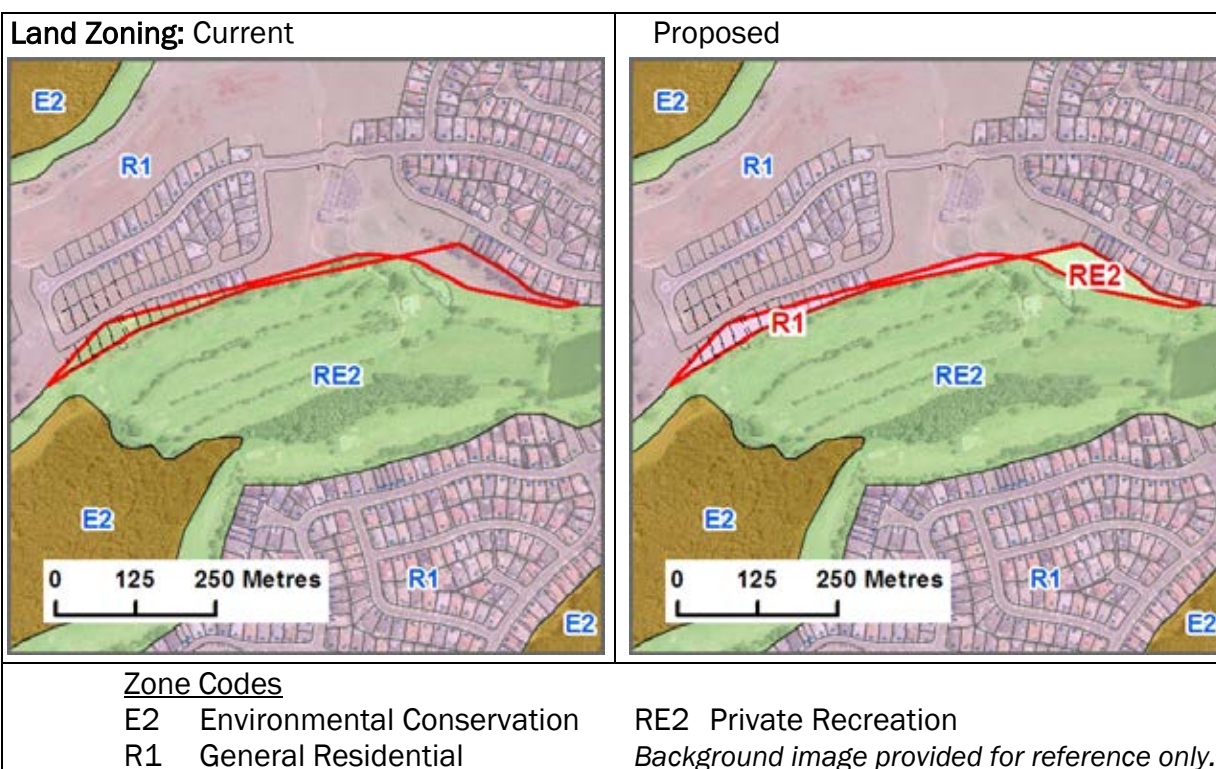
The development consent for the staged subdivision occurring around Emerald Drive at Lighthouse Beach predates computerised mapping, and the conversion to digital mapping has led to anomalies between property and zoning boundaries.

Lots within a recent subdivision release (Nos 19, 21, 23, 25, 27, 29, 31 Diamond Drive) and lots pending release within the residue Lot 1609 DP1188716 have split zonings: part Zone R1 General Residential and part Zone RE2 Private Recreation. Consultants for the developer have approached Council about rectifying this promptly, as the split zoning complicates property sales and development.

It is appropriate to alter the boundary for the zoning and associated mapping series, in line with known final property boundaries - the area between Diamond Drive and Ruby Circuit is excluded as further lot releases are anticipated in this area. The red outlines on the map show areas proposed to be changed to R1 and RE2 - corresponding changes to other map series would align with this, as shown below.

Land affected and proposed map changes

The changes relate to parts of Lot 1609 DP 1188716 and Nos 19, 21, 23, 25, 27, 29, 31 Diamond Drive, Port Macquarie. The proposed changes to the Land Zoning Map sheet LZN_013G, Lot Size Map sheet LSZ_013G, Floor Space Ratio Map sheet FSR_013G and Height of Buildings Map sheet HOB_013G are shown in the extracts below.



Lot Size: Current



Proposed



Minimum Lot Size Codes

G 450 sq metres

AB2 40 hectares

Floor Space Ratio: Current

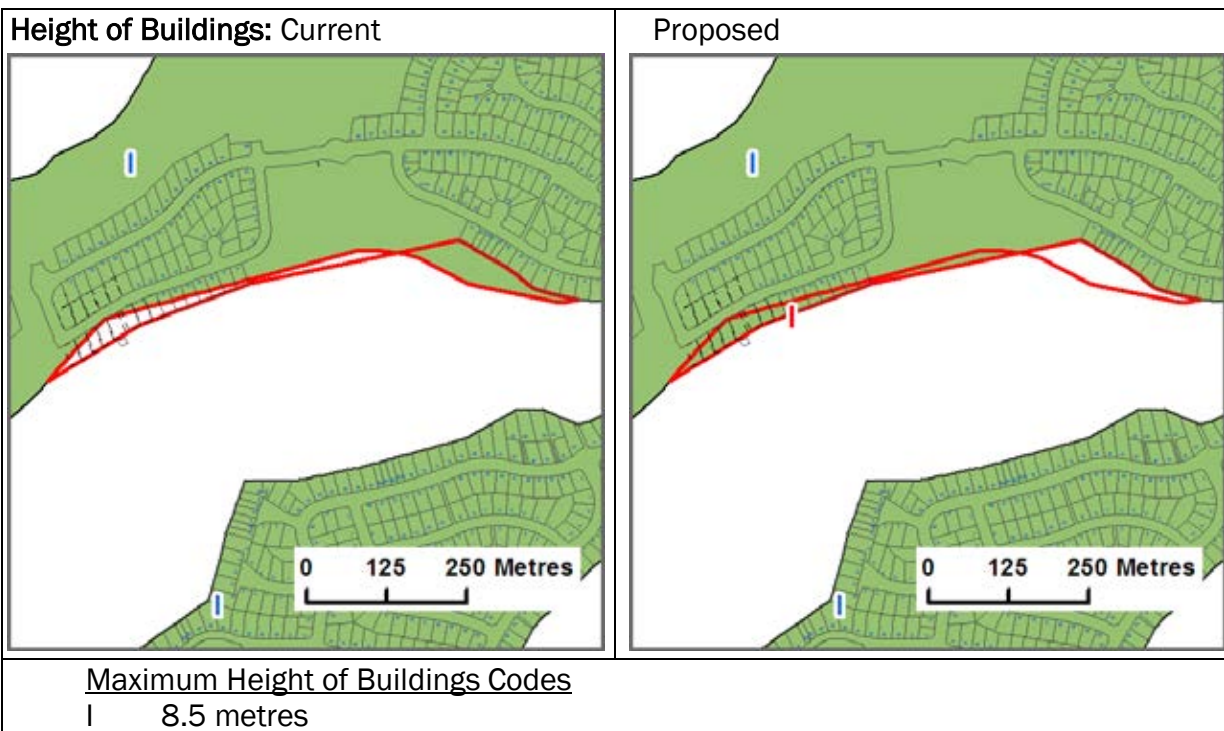


Proposed



Maximum Floor Space Codes

G 0.65:1



Proposal:

That for Lot 1609 DP 1188716 and Nos 19, 21, 23, 25, 27, 29 & 31 Diamond Drive, Port Macquarie:

- on the Land Zoning Map the boundary between Zones R1 General Residential and RE2 Private Recreation be amended as shown on the map below, and
- on the Lot Size Map the boundary between minimum lot sizes of 450 sq m and 40 Ha be similarly amended, and
- on the Floor Space Ratio Map the boundary of the maximum FSR of 0.65:1 be similarly amended, and
- on the Height of Buildings Map the boundary of the maximum height of 8.5 m be similarly amended.

Issue 12: Lake Street, Laurieton - Zone B4

The Laurieton United Services Club (LUSC) has been seeking to construct seniors housing south of their club building, on land fronting Lake Street (outlined in red on the map); and comprising partly land they own and partly Crown land that they are seeking to acquire.

Preliminary assessment by staff has identified that the site is significantly affected by flooding, and that the development is only permissible in the current Zone B2 Local Centre if the ground floor is used for other purposes.

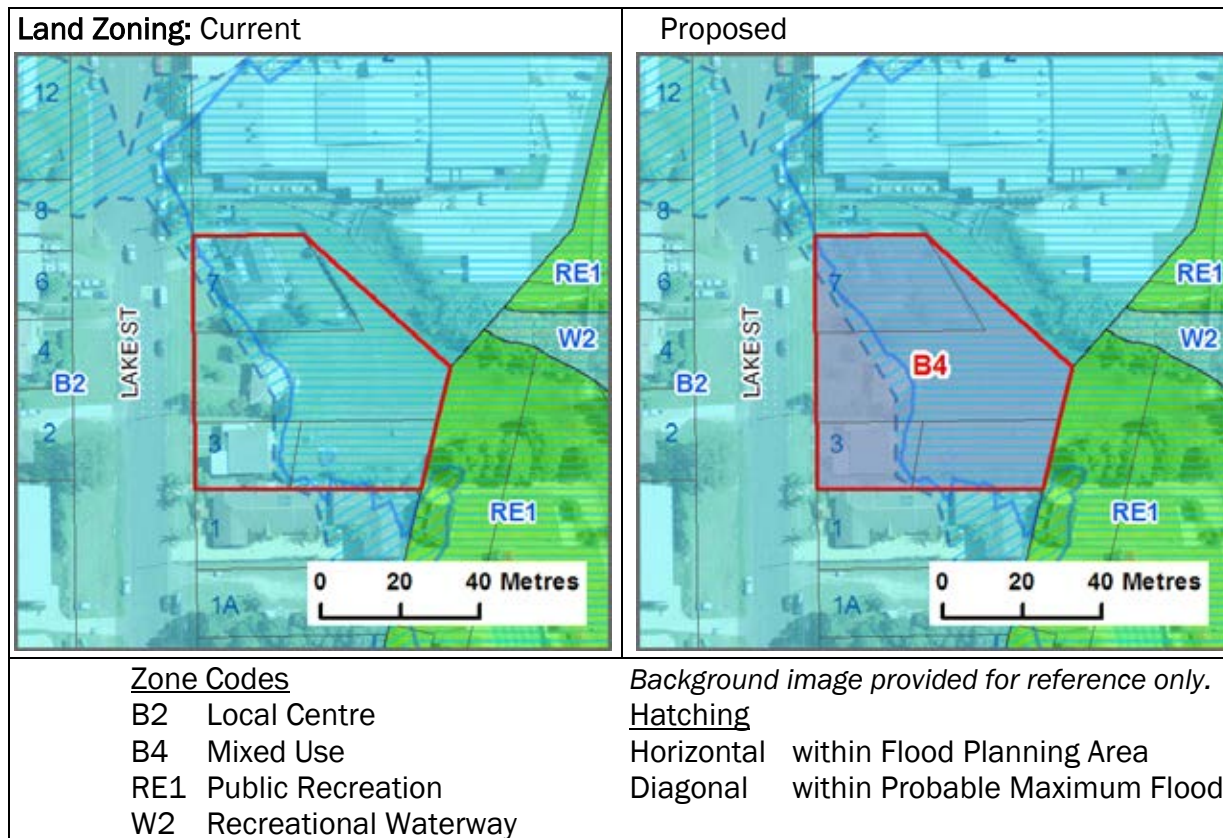
It is proposed to apply a Zone B4 Mixed Use, which will allow a wide range of uses - including commercial uses and seniors housing. Any development proposal will still be subject to consideration of compatibility with flooding risk and whether the development is appropriate in that location.

Land affected and proposed map changes

The changes relate to:

- Lot 289 DP 754405, No 7 Lake Street,
- Part Lot 1 DP 804130, No 2 Seymour Street - the Club building is on the balance of this lot,
- Lot 1 DP 209388, No 3 Lake Street, and
- Lot 701 DP 1027440, being Crown land behind No 3.

The proposed change to the Land Zoning Map sheet LZN_014A is shown in the map extract below.



Proposal:

That Nos 3 & 7, Lot 701 DP 1027440 and part Lot 1 DP 804130, Lake Street Laurieton be rezoned to B4 Mixed Use, as illustrated in this planning proposal.

Issue 13: Westport Park, Port Macquarie - height limit

Westport Park is Crown land managed by Council, and regularly used by temporary uses, including some with tall marquees. The current maximum height limit of 8.5 m can complicate approvals of temporary uses which have higher structures.

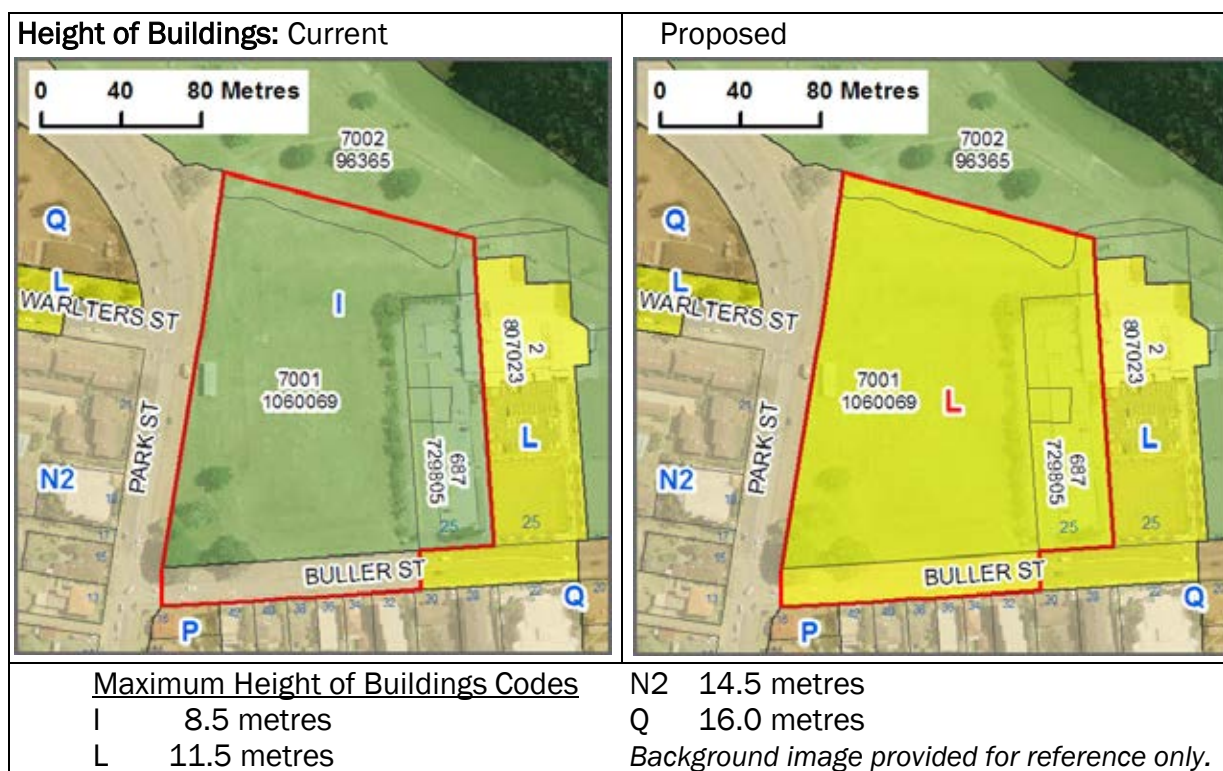
It is proposed to increase the height limit to 11.5 m, which will remove the need to seek exemptions to the lower height limit. There will still be general assessment during the approval process.

The Crown land includes the adjoining car park, which is shared by users of both Westport Club and Westport Park. For mapping simplicity it is proposed to apply the increased height over this land as well.

Land affected and proposed map changes

The changes relate to part of Westport Park, corner of Buller Street and Park Street, Port Macquarie. The proposed change to the Height of Buildings Map sheet HOB_013FA is shown in the extract below.

Council has a specific interest in land to which this Issue applies - further information is provided below.



Proposal:

That for that part of Westport Park adjoining Park Street (as identified on the map) the Height of Buildings Map be amended to a maximum of 11.5 m.

Council's interest in land affected

Appendix C contains a copy of *LEPs and Council land - Best Practice Guideline*, issued in January 1997 by the then NSW Department of Urban Affairs and Planning (DUAP). Councils are still advised to follow this.

General details	
Why is the draft LEP being prepared?	To amend the height limit for portion of a public park which often has temporary uses.
What prompted preparation of the draft LEP?	Temporary uses of this portion of Westport Park often involve marquees or other structures higher than the current height limit of 8.5 m. Each occasion necessitates processing a request under LEP clause 4.6 for a variation to that development standard. It is considered that
How the draft plan will affect planning controls?	For the subject portion of Westport Park the LEP Height of Buildings Map will be amended to L (11.5 m).
Is the draft LEP being prepared to permit a particular proposal? If so, any available details of the proposal should be included in the exhibition	No one specific proposal.
What actual physical or operational changes may result?	The approval process for the temporary use will be simplified - while height will still be considered, it will not require additional application and assessment steps under clause 4.6
The financial implications of a change in planning controls.	Lower approval processing times and costs - benefiting Council and applicants.

Property	Port Macquarie: Lot 7001 DP 1060069, Reserve 1033088 for Public Recreation, Westport Park, corner Buller and Park Streets. For mapping continuity, the proposal includes Lot 706 DP 822678 and Lot 687 DP 729805 to the east, being car park associated with Westport Bowling Club.
Nature of Council's interest in the land	- Lot 7001: Appointed as Trust Manager by the Crown - Lots 706 & 687: Council is the authority benefiting from a positive covenant applying to these lots: "The rights to use the car park on the subject land by groups using the adjoining playing field known as Westport Oval must be preserved."
When Council first acquired an interest in the land.	Several decades ago
Why Council acquired an interest in the land	Appointed as Trust Manager
How Council acquired its interest in the land?	See above

Property	Port Macquarie: Lot 7001 DP 1060069, Reserve 1033088 for Public Recreation, Westport Park, corner Buller and Park Streets. For mapping continuity, the proposal includes Lot 706 DP 822678 and Lot 687 DP 729805 to the east, being car park associated with Westport Bowling Club.
For land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement	Not applicable
If an agreement for lease or sale of the land has been made, basic details of the agreement.	Not applicable

Appendix B – List of proposed amendments

A. Changes to text

Note: The following textual changes are indicative, and the final wording will be determined by the NSW Parliamentary Counsel's Office.

Provision	Changes	Appendix A - Issue					
Clause 1.2	Insert at the end of subclause (2): (m) to provide effective and efficient connectivity and movement corridors within and between subdivisions.	1					
Land Use Table: Zone No RU2	Insert “Extractive industries;” in item 3 of the matter relating to Zone RU2 Rural Landscape.	2					
Land Use Table: Zone No RU3	Insert “Agriculture;” and “Extractive industries;” in item 3 of the matter relating to Zone RU3 Forestry.	2					
Land Use Table: Zone Nos RU5 & R2	- Omit “Home-based child care;” from item 2 of the matter relating to Zones RU5 Village and R2 Low Density Residential. - Insert “Home-based child care;” in alphabetical order in item 3 of the matter relating to Zones RU5 Village and R2 Low Density Residential.	3					
Land Use Table: Zone Nos R1, R3, R4, R5, B1, B2, B3 and B4	Omit “Home-based child care;” from item 2 of the matter relating to Zones R1 General Residential, R3 Medium Density Residential, R4 High Density Residential, R5 Large Lot Residential, B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core and B4 Mixed Use. [Note: for Zone Nos R1, R3, R4, R5, B1, B2, B3 and B4, if it is not listed under Item 2 or 4, by default Home-based child care is classed as Permitted with consent.]	3					
Land Use Table: Zone No RE2	- Omit “Building identification signs; Business identification signs;” from item 3 of the matter relating to Zone RE2 Private Recreation. - Insert “Signage;” in alphabetical order in item 3 of the matter relating to Zone RE2 Private Recreation.	4					
Clause 5.3	Omit subclause (2) and insert instead: (2) This clause applies to so much of any land that is within the relevant distance of a boundary between any 2 zones. The relevant distance is: (a) 100 metres for land involving only boundaries between Zones RU1 Primary Production, RU2 Rural Landscape or RU3 Forestry, or (b) 20 metres in all other cases.	5					
Clause 5.9	Insert the following subclause: (9) Subclause (8) (a) (ii) does not apply in relation to land in Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.	6					
Schedule 1	Insert at the end of the schedule: 5 Use of certain land at 27 John Fraser Place, Port Macquarie: (1) This clause applies to land at 27 John Fraser Place, Port Macquarie, being Lot 1, DP 504833, shown as “Item 5” on the Additional Permitted Uses Map. (2) Development for the purposes of animal pound and of depot are permitted with development consent.	7					
Schedule 5 Part 1	- Omit the matter relating to Item Nos I045, I048 and I091. - Insert the following (ordered by Suburb and Address): <table><tr><td>Wauchope</td><td>Former police dwelling house</td><td>39 Hastings Street (corner Young Street)</td><td>Part Lot 1, Local DP 1157036</td><td>I045</td></tr></table>	Wauchope	Former police dwelling house	39 Hastings Street (corner Young Street)	Part Lot 1, Local DP 1157036	I045	8
Wauchope	Former police dwelling house	39 Hastings Street (corner Young Street)	Part Lot 1, Local DP 1157036	I045			

Provision	Changes	Appendix A - Issue
	Wauchope Courthouse building (excluding additions) 41 Hastings Street Part Lot 1, DP 1157036 Local I048 Wauchope Uniting Church building (excluding extensions) 41A Hastings Street Lot 1, DP 797394 Local I091	

B. Changes to Map Sheets

The following map sheets are revoked:

Map sheets	Map sheet identifier	Appendix A - Issue
Land Zoning Map		
LZN_011A	6380_COM_LZN_011A_020_20110124	9
LZN_011B	6380_COM_LZN_011B_020_20130418	10
LZN_013G	6380_COM_LZN_013G_020_20141208	11
LZN_014A	6380_COM_LZN_014A_020_20120821	12
Lot Size Map		
LSZ_011B	6380_COM_LSZ_011B_020_20140219	10
LSZ_013G	6380_COM_LSZ_013G_020_20140219	11
Additional Permitted Uses Map		
APU_011B ‡	6380_COM_APU_011B_020_20111215	7
APU_013D ‡	6380_COM_APU_013D_020_20140808	7
APU_013FA ‡	6380_COM_APU_013FA_020_20110202	7
Floor Space Ratio Map		
FSR_011B	6380_COM_FSR_011B_020_20120502	10
FSR_013G	6380_COM_FSR_013G_020_20141209	11
Heritage Map		
HER_010B	6380_COM_HER_010B_020_20110525	8
Height of Buildings Map		
HOB_011B	6380_COM_HOB_011B_020_20110502	10
HOB_013FA	6380_COM_HOB_013FA_020_20141202	13
HOB_013G	6380_COM_HOB_013G_020_20141208	11

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

‡ The only change on these map sheets is to update the legend to show changes to the map sheets in the Series, arising from new sheet APU_013G in Issue 7.

The following map sheets are adopted:

Map sheets	Map sheet identifier	Appendix A - Issue
Land Zoning Map		
LZN_011A	6380_COM_LZN_011A_020_20150428	9
LZN_011B	6380_COM_LZN_011B_020_20150127	10
LZN_013G	6380_COM_LZN_013G_020_20150428	12
LZN_014A	6380_COM_LZN_014A_020_20150127	13

Map sheets	Map sheet identifier	Appendix A - Issue
Lot Size Map		
LSZ_011B	6380_COM_LSZ_011B_020_20150428	10
LSZ_013G	6380_COM_LSZ_013G_020_20150428	12
Additional Permitted Uses Map		
APU_011B ‡	6380_COM_APU_011B_020_20150127	7
APU_013D ‡	6380_COM_APU_013D_020_220150127	7
APU_013FA ‡	6380_COM_APU_013FA_020_20150428	7
APU_013G	6380_COM_APU_013G_020_20150428	7
Floor Space Ratio Map		
FSR_011B	6380_COM_FSR_011B_020_20150127	10
FSR_013G	6380_COM_FSR_013G_020_20150428	12
Heritage Map		
HER_010B	6380_COM_HER_010B_020_20150127	8
Height of Buildings Map		
HOB_011B	6380_COM_HOB_011B_020_20150127	10
HOB_013FA	6380_COM_HOB_013FA_020_20150428	11
HOB_013G	6380_COM_HOB_013G_020_20150428	12

Notes: These maps may need to be updated for the other amendments finalised prior to this amendment.

‡ The only change on these map sheets is to update the legend to show changes to the map sheets in the Series, arising from new sheet APU_013G in Issue 7.

Appendix C – LEPs and Council land - Best Practice Guideline

It is appropriate to acknowledge where Council has a direct interest in the outcome of an proposed change to the planning controls. In this regard the then NSW Department of Urban Affairs and Planning (DUAP) in January 1997 issued ***LEPs and Council land - Best Practice Guideline***, and Councils are still advised to follow this. A copy of this Guideline follows.

LEPs and Council Land

**BEST
PRACTICE
GUIDELINE**

**January
1997**

KEY ISSUES IN THIS GUIDELINE

- status of this guideline
- requirements for exhibition
- notification of outcome
- withdrawal of delegation

Guideline for
councils using
delegated powers to
prepare LEPs
involving land that is
or was previously
owned or controlled
by council.

New South Wales
**DEPARTMENT OF URBAN AFFAIRS
AND PLANNING**

SECTION ONE - INTRODUCTION

1.1 REASON FOR THIS GUIDELINE

Instances where a council proposes to change the planning controls that apply to land in which it has or has had an interest present an unusual situation. In many cases Council will be both regulator acting in the interest of the community, and entrepreneur seeking to maximise the benefit realised from a community asset.

These dual roles may give rise to a real conflict of interest or the appearance that council is affording itself special treatment. While both roles are legitimate, council must make sure that its decisions as regulator are not biased by its financial interests in property.

The mere fact that council is both applicant and decision maker is sufficient to create an appearance of unfairness and to erode the community's confidence in the planning process.

Council has a responsibility to ensure that any proposal is objectively assessed. It is important that the community sees proper procedures being followed and balanced, consistent assessment of environmental, social and economic considerations in these situations.

As a hypothetical example, consider the following:

Ten years ago council carried out and published a retail centre study. The study identified key sites which should be held for major development or re-development in the future.

Two years after the study was adopted, council bought one of the key vacant sites and made it

temporarily available to address a shortfall in public car parking.

The time is now right for the site to be developed for retail/residential use and council has entered into an agreement with a developer which ensures public car parking will be provided as part of a new development.

Council prepares a draft LEP to rezone the land from its original residential zone to the mixed use zone in place throughout the retail centre. The controls and urban design principles covering adjoining sites will apply to council's land.

Even based on this brief description, the council's actions appear reasonable. A different impression may be gained by local residents who hear through 'the grapevine' that council is going to rezone the community's land, close the public car park, sell the land to a big developer to build a retail/residential tower and make \$1.3 million profit.

The aim of this guideline is to make the planning process open to public scrutiny by ensuring that all relevant information is available in situations such as the one described above. Through this the community can develop confidence that fair, proper processes have been followed and that council has managed its conflicting interests satisfactorily.

1.2 DELEGATION

Section 23 of the Environmental Planning and Assessment Act 1979 (the Act) allows the Director-General of the Department of Urban Affairs and Planning to delegate certain planning powers to councils. At present the Director-General delegates to some councils the ability to exercise local environmental plan (LEP) preparation powers under s.65 and s.69 of the Act.

A report released by the Independent

~~highlighted several instances where with a~~
Commission Against Corruption in 1992 highlighted several instances where councils did not satisfactorily deal with a conflict of interest between their roles as regulator and developer. This prompted the Director-General to withdraw delegated powers for LEPs involving land that is owned or controlled by a council or was owned or controlled by a council where any aspect of the LEP was the subject of an undertaking between council and the purchaser.

The Director-General has now reinstated delegated powers, confident that this guideline will assist councils to administer the LEP making process in a fair and responsible manner. This guideline is intended to assist by ensuring that conflicts of interest are disclosed and resolved in an accountable and open manner. Where councils' actions are fair and reasonable, the decision process will be seen to be impartial.

In exceptional circumstances a council or the Director-General still may decide that it is not appropriate for a council to exercise delegated LEP making powers (further information in Section 3.).

1.3 STATUS OF THIS GUIDELINE

This guideline is referred to in the instrument of delegation issued by the Director-General regarding powers under s.65 and s.69 of the Act. Councils are allowed to exercise these powers in the preparation of LEPs that apply to land that is owned or controlled by Council, or was owned or controlled by Council and is the subject of an undertaking between council and the purchaser (referred to from here on as *council land*), if they comply with this guideline.

This guideline does not replace the requirements in the Act concerning the

preparation and exhibition of LEPs. The guideline adds detail and specifies several additional requirements where a council wishes to use its delegated powers to prepare an LEP that applies to *council land*.

On 22 November 1990 the Department issued Department of Planning Circular No. C18 titled *Processes for the Rezoning of Council Assets for Disposal*. That Circular addresses rezoning of council owned land generally and is advisory only.

This guideline has a focus on matters concerning the exercise of delegated powers and must be followed when delegation is used. Both provide consistent advice on a number of common issues, and the additional information in the earlier Circular still may be of assistance to councils in some cases.

SECTION 2 - REQUIREMENTS

2.1 EXHIBITION

When a council exhibits a draft LEP (in accordance with s.66 of the Act) that applies to *council land* this guideline requires additional information to be included.

The aim of this is to make clear Council's interest in the land and the reasons why the draft plan is being prepared. This makes the plan preparation process more open and allows the community to assess proposals with a full appreciation of all relevant information.

Consistent with this aim, information must be exhibited in a clear manner. Information must be detailed enough to be informative, without being overwhelming.

The following information must be included in the material displayed during exhibition:

2.1.1 Statement of Council's Interest

A written statement must be provided which describes Council's interest in the land. This should include information such as:

- the nature of Council's interest in the land (e.g. Council has a 30 year lease over the site, Council owns the land freehold);
- when Council first acquired an interest in the land;
- why Council acquired an interest in the land (e.g. for an extension to the adjoining park, Council was given responsibility for the land by a State authority);

- how Council acquired its interest in the land (e.g. the land was purchased, through s.94); and
- for land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement

2.1.2 Purpose of the draft LEP:

A written statement must be provided explaining why Council is preparing the draft plan. A statement such as "to rezone the land" is not sufficient. The following must be addressed:

- why the draft LEP is being prepared (e.g. to facilitate growth of a commercial centre, to provide opportunities for higher density residential development near a railway station, to allow a child care centre in an open space zone);
- how the draft plan will affect planning controls (e.g. change a residential zoning to commercial, introduce heritage controls); and
- what prompted preparation of the draft LEP (e.g. the findings of a residential development strategy, a request from an affected land owner, Council's intention to dispose of the land).

2.1.3 Anticipated development

Knowing what type of development may result from a change in planning controls helps everyone interested in the draft LEP understand how they will be affected in real life. This allows people to make more constructive comments than they otherwise might. The following must be addressed:

- what actual physical or operational changes may result? A change to the maximum floor space ratio, for example, may not mean very much to most people. It would be more helpful to

explain that the change will create an opportunity for several additional storeys of development on the site, subject to assessment and approval in accordance with Council's controls and policies;

- is the draft LEP being prepared to permit a particular proposal? If so, any available details of the proposal should be included in the exhibition.

2.1.4 Financial Implications

While any change in planning controls will have some effect on land values, there will be instances where Council or another party stands to make a substantial financial gain or loss as a result of making an LEP.

In some cases the increase in land value resulting from an LEP may be one of the reasons why council has decided to prepare the LEP. Council may have even made an agreement for the sale or lease of the land conditional on the controls being changed.

The community should be aware of the financial implications of a change in planning controls, especially when they are more than a minor consequence of the change. While it may be inappropriate to make known all financial details (in the interest of protecting commercial advantage) Council must at least provide an indication of the magnitude of any financial gains or losses.

Council could indicate the magnitude of value that will be added to the land by comparing current and likely future land value (e.g. the land is currently valued at \$100 m², nearby land zoned for commercial development is valued at between \$200 and \$250 m²).

Where an agreement for lease or sale of the land has been made, council must at least state that this is the case and provide basic details of the agreement. Information on

the terms of the agreement should be made available where possible.

2.1.5 Guideline

A copy of this guideline must be included in the exhibition. This helps the public understand why certain information has been exhibited and to check that all relevant information has been made available.

2.2 NOTIFICATION

After the LEP has been made or a decision taken not to proceed with the draft LEP, everyone who made a written submission must be notified in writing. Notification must be sent within 14 days of the decision and must include an explanation of how the issues raised in the submission were addressed and the reasons for council's decision.

2.3 MONITORING

Although the Director-General has delegated certain powers to councils, she retains a responsibility to make sure that the LEP making system operates satisfactorily. To provide for monitoring, the following is required of councils:

- a copy of all written material to be exhibited must be included with Council's s.64 submission;
- where LEPs are prepared using s.69 delegated powers: a section must be added to the s.69 report to the Minister briefly setting out Council's interest in the land, any conflict of interest, issues raised in any relevant submissions, and an explanation of how these issues have been addressed or resolved;

- where the s.69 report will be prepared by the Director-General : a copy of the final report submitted to Council (or where this report does not include the matters listed in the previous point - a report dealing with these matters) must be included in the s.68(4) submission.

Regional Managers will monitor councils' compliance on an ongoing basis. A full review of the operation of this guideline will be carried out 12 months after delegation is reinstated, with the involvement of the Local Government Liaison Committee.

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SECTION 3 - OTHER MATTERS

3.1 WITHDRAWAL OF DELEGATION BY THE DIRECTOR-GENERAL

The option of the Director-General withdrawing delegation for a particular LEP (or from a particular council) is always available. This option may be exercised in circumstances where it is unlikely that, or unreasonable to expect that a council will be able to deal with a LEP in an objective and impartial way.

While it is not possible to envisage every such situation, the following provides an indication of possible circumstances:

- where controversial events precede the decision to prepare a LEP;
- where the community has strong feelings or an emotional attachment to the land or buildings involved;
- where the magnitude of the benefits (financial or otherwise) that Council may obtain as a result of making the LEP is significant;
- where strong community opposition to the LEP is shown by: submissions during exhibition, letters to the Director-General or Minister, or extensive media coverage;
- where an unreasonably short, poorly timed (ie. during a holiday period) or uninformative exhibition is held by Council; or
- where Council's consideration of relevant issues is prejudiced and a biased or unfair outcome is likely.

If experience shows that a particular council is not able to exercise delegated LEP making powers in a responsible way, the Director-General may withdraw delegation for future LEPs in the interest of

maintaining the integrity of the planning system.

3.2 WHERE COUNCIL DECIDES NOT TO USE DELEGATION

There may be occasions on which the nature of a conflict of interest or the sensitivity of a proposal make it very difficult for Council to impartially prepare an LEP. While councils are encouraged to use their delegated powers whenever possible, there may be cases where it would be best for the Department to process an LEP.

Where a council believes that it is in this situation, contact should be made with the local Regional Manager from the Department to discuss possible alternative arrangements. If the Department feels that a conflict can be satisfactorily managed by council, it will not become involved in the preparation of a draft LEP.

3.3 FURTHER INFORMATION

If you would like to discuss any aspect of this guideline please contact your regional office of the Department.

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Appendix D – Gateway Determination

A copy of the Gateway Determination for this Planning Proposal will be included in this Appendix after it is issued.

The Determination will identify processing requirements, such as:

- community consultation, or
- possible changes to this proposal.

At the time of preparation of this version of the planning proposal there has been no Gateway Determination.

Appendix E – Public authorities’ responses

Prior to public exhibition, consultation will be made with the following authorities:

- Forestry Corporation of NSW
- NSW Rural Fire Service
- Department of Trade and Investment (Crown Lands)

Appendix F – Site Identification Maps

Where printed, the Site Identification Maps could follow this page.

Where in electronic form, it is likely these pages will be separate documents.

Site Identification Map name	Sheet Nos	Issue Nos (Appendix A)
6380_COM_Am34_SID_010&013_080_20150205 (Wauchope and Port Macquarie)	010B 013FA 013G	8 13 7, 11
6380_COM_Am34_SID_011&014_080_20150205 (Logans Crossing, Kew and Laurieton)	011A 011B 014A	9 10 12



**Port Macquarie-
Hastings Local
Environmental
Plan 2011
Amendment No 34**

**Site Identification Map
SID_010&013**

Relates to amendments by
Issue Nos 7, 8, 11 & 13
to Map sheets 010B, 013FA, & 013G.

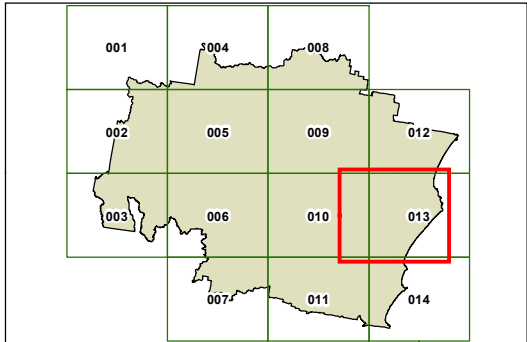
Notes:
Issues 1 to 6 are not mapped as they relate
to provisions in the text with potential
widespread though minor impact.

Site Identification

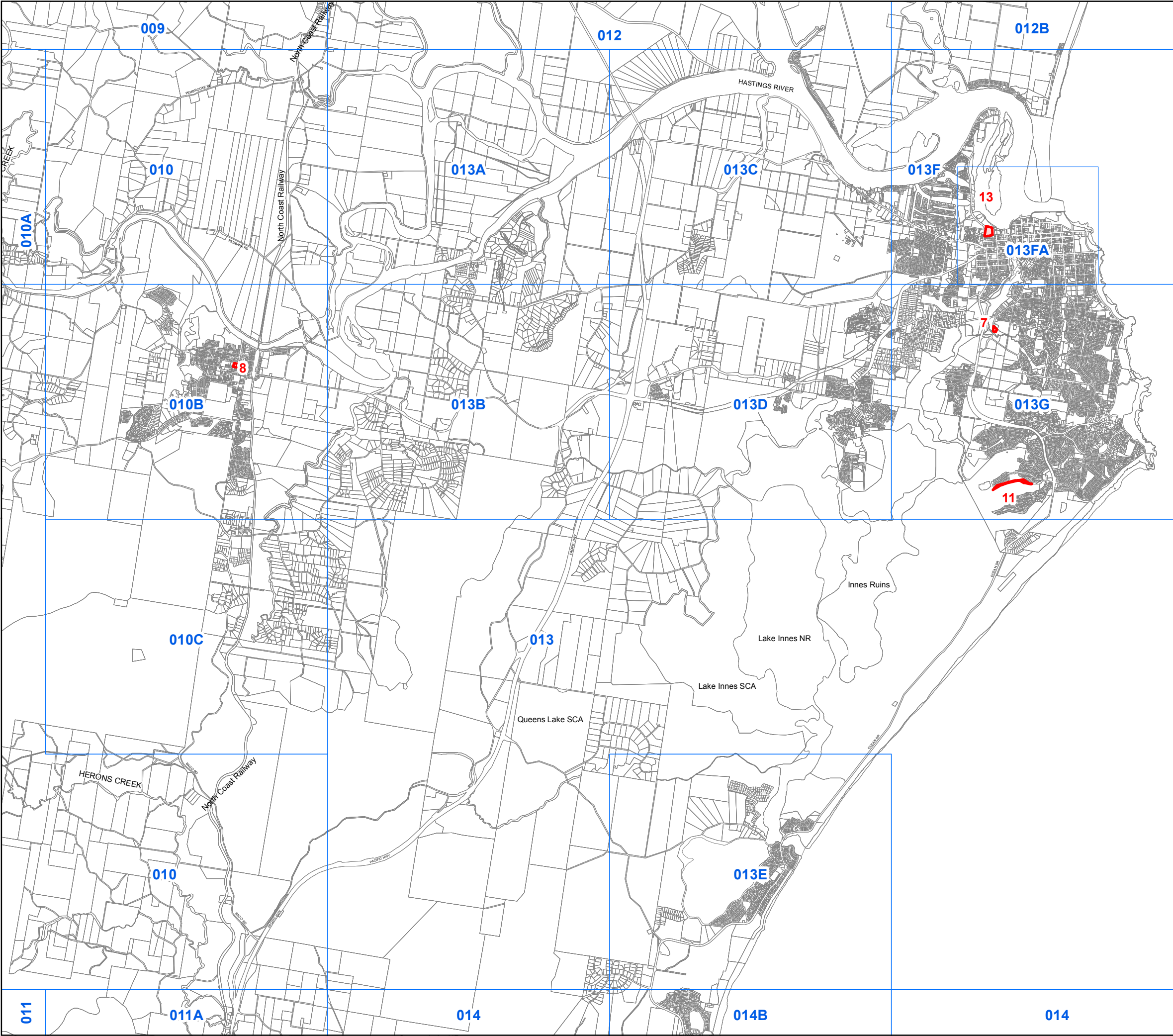
 Site Identification

Cadastre

 Base data 1994 © Land and Property
Management Authority of NSW (LPMA)
Addendum data © 5/02/2015 PMHC



6380_COM_Am34_SID_010&013_080_20150205





**Port Macquarie-
Hastings Local
Environmental
Plan 2011
Amendment No 34**

**Site Identification Map
SID_011&014**

Relates to amendments by
Issue Nos 9, 10 & 12
to Map sheets 011A, 011B, & 014A.

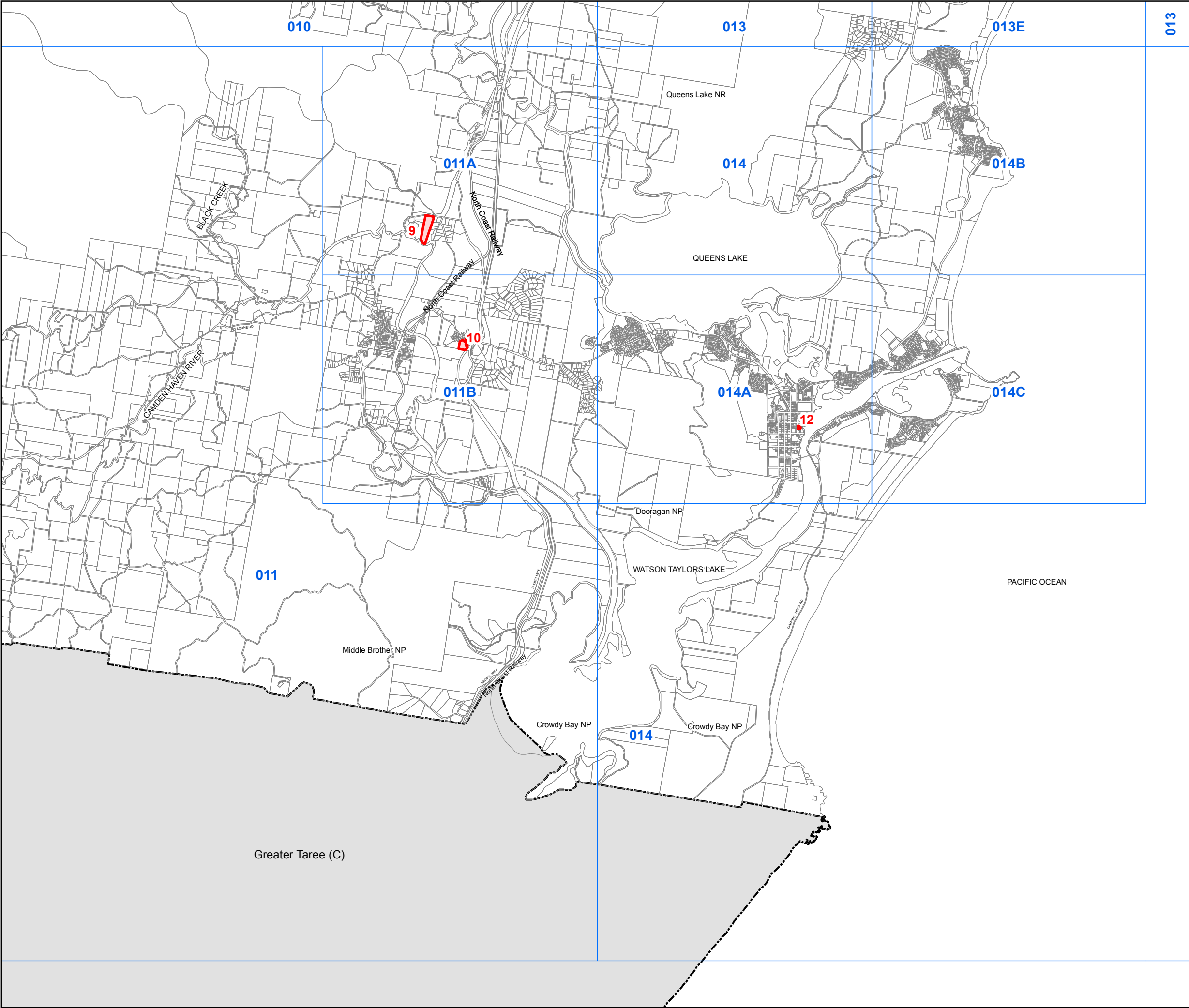
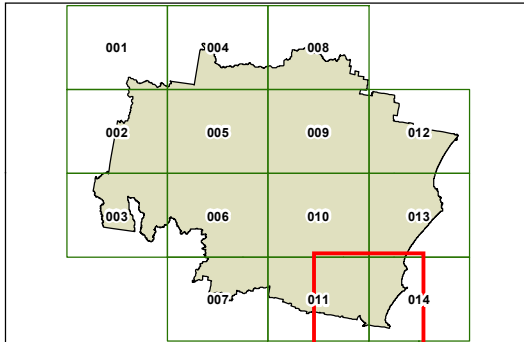
Notes:
Issues 1 to 6 are not mapped as they relate
to provisions in the text with potential
widespread though minor impact.

Site Identification

 Issues 7 to 13

Cadastre

 Base data 1994 © Land and Property
Management Authority of NSW (LPMA)
Addendum data © 5/02/2015 PMHC



Appendix G – Map Sheets to be adopted

The Map Cover Sheet is a part of the submission of the draft LEP for formal approval by the Minister for Planning or delegate. It will not be prepared until that stage.

The Map Cover Sheet will contain the final content of the Part B Changes to Map Sheets within **Appendix B**.

The proposed map sheets to be adopted as listed there are on the following pages .

Where in electronic form, it is possible these map sheets will be separate documents.

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