

Planning Proposal under section 55 of the EP&A Act

Further refinements to Port Macquarie-Hastings Local Environmental Plan 2011

Ccl ref: PP2011-0012

DPI ref: *

Date: 12/04/2012



Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Draft within Council	24/10/2011
Reported to Council [sec 55]	15/02/2012
Adopted by Council & referred to Dept of Planning [sec 56 (1)]	12/04/2012
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 & referred to Dept of Planning [sec 58 (2)]	

Council reference: PP2011-0012

Port Macquarie-Hastings LEP 2011 (Amendment No 16)

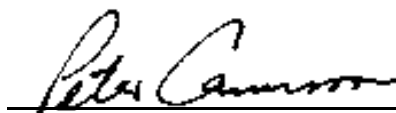
Department of Planning & *
Infrastructure reference:

Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on 15 February 2012 by *Port Macquarie-Hastings Council*.

Signed



Name Peter Cameron

Position Group Manager Strategic 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".

Pages 5 to 9 contain required information about the Planning Proposal. As this proposal covers multiple items, more specific information is contained in Appendices A and B.

Appendix A (pages 10-12) lists the specific amendments to the LEP. The Planning Proposal contains statements of the intent for changes to the LEP text, but not the specific wording

Appendix B (pages 13-28) contains details of the amendments contained in this **Planning Proposal PP2011-0012**. They cover:

- Assorted changes to the Land Use Table,
- Modification of the objective to a clause on architectural roof features,
- Allowing farm dams as exempt development where certain criteria are satisfied,
- Allowing an additional land use on Council land on Pacific Parkway, Lake Innes,
- Rezoning land Council is purchasing at Kendall to RE1 Public Recreation,
- Various other mapping corrections or refinements.

Appendix C (pages 29-) contains a copy of the "Gateway Determination" from the NSW Department of Planning and Infrastructure, relating to this Planning Proposal.

Appendix D contains Site Identification Map sheets, showing the affected land, other than for the broadscale changes (eg to the Land Use Table).

Appendix E contains the proposed Map Cover Sheet that will formally list the proposed changes to the LEP Map Index on the NSW Legislation website.

Appendix F contains the proposed replacement LEP Map sheets listed in Appendix E.

Exhibition

The exhibition period is from {date} to {date}, with the Planning Proposal available for inspection by any person at Council's offices at Port Macquarie, Laurieton and Wauchope.

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 PP2011-0012, and be emailed to

council@pmhc.nsw.gov.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.

Section 147 (5) of the *Environmental Planning and Assessment Act 1979* states in part:

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

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

If further information is required on this, ask Council's Customer Service staff.

Further information

Please contact {name} on phone 6581 {ext #}.

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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*. It will be assessed by Port Macquarie-Hastings Council, the NSW Department of Planning and Infrastructure, and (depending on the Gateway determination) used for public participation on the proposed LEP amendment.

Background

Proposal	To make further refinements to Port Macquarie-Hastings Local Environmental Plan 2011, relating to relatively minor anomalies.
Property Details	Some corrections apply generally, and some relate to specific locations – refer to the details in Appendix B.
Applicant Details	Port Macquarie-Hastings Council
Land owner	Various
Brief history	PM-H LEP 2011 was prepared over 5 years, and is a much more complex LEP than previous LEPs, due to: • ongoing changes to the LEP template upon which it is based, and • the indirect relationships between the multiple map series. The refinements mostly relate to: • resolving anomalies in the text (especially in the land use terms) arising from changes to the LEP template or from greater certainty about interpretation, • resolving anomalies in the LEP maps or between map series, and • incorporating updates relating to use of public land.
Location	Details of the land affected by the amendments are given in Appendix B.

Part 1 - Objectives or Intended Outcomes

It is intended to amend Port Macquarie-Hastings Local Environmental Plan 2011 to incorporate refinements that:

- address anomalies in the Land Use Table, in relation to whether some land uses are permitted in particular land use zones,
- modify the objectives of a clause relating to architectural roof features,
- allow farm dams as exempt development where certain criteria are met,
- fix some mapping errors,
- facilitate use of land at Kendall for community tennis courts,
- allow for a wider range of recreational land uses on Council land on Pacific Parkway, Lake Innes,
- reflect extension of the land used by Port Macquarie Airport,
- provide some flexibility for business activities within a road on the fringe of the Port Macquarie business centre, and
- identify residential land where special attention is required in relation to acoustic measures to block out road noise.

Further information on these is contained in Appendix B.

Part 2 - Explanation of Provisions

Appendix A outlines the proposed changes to the LEP text and LEP Map Index, with references to the associated matter in Appendix B.

Part 3 – Justification

Section A - Need for the planning proposal.

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

This 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?

The intended outcomes relate to refinements of the LEP provisions. A planning proposal is required in order to have amendments to the LEP considered and approved.

3. Is there a net community benefit?

The intended outcomes will provide a net community benefit by:

- Rectifying mapping errors,
- Rectifying anomalies in the Land Use Table, which could otherwise prohibit quite reasonable proposals, or theoretically allow some incompatible land uses,
- Allow some reasonable uses – as exempt development, or with consent.

In most cases there is no current proposal affected by the proposed amendments – the issue is being addressed prior to it leading to unnecessary delays or conflict.

Section B - Relationship to strategic planning framework.

1. Is the planning proposal consistent with the objectives and actions contained within the Mid North Coast Regional Strategy 2006-31?

The planning proposal is consistent with the objectives and actions contained within the *Mid North Coast Regional Strategy*.

The planning proposal consistent with the objectives and actions contained within the Mid North Coast Farmland Mapping Project.

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

The planning proposal is consistent with Council's Community Strategic Plan and *Urban Growth Management Strategy 2010 – 2031*.

3. Is the planning proposal consistent with applicable state environmental planning policies?

The planning proposal is consistent with applicable state environmental planning policies.

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

Section 117 Direction 6.3 Site Specific Provisions is relevant to Item 12 in Appendix B, which proposes to insert a site-specific provision in relation to land zoned RU1 Primary Production. There are already some recreational land uses on the land, and the proposal is to allow recreation facilities (outdoor) as a permissible additional use for this land – with consent.

It is considered that it is not appropriate to allow recreation facilities (outdoor) within all land zoned RU1 Primary Production, nor to rezone the land to another zone (eg SP3 Tourist) which permits that land use.

This will enable specific proposals (and not just the current proposed development) to be assessed and determined having regard to the site characteristics and location.

The planning proposal is consistent with the Direction.

The planning proposal is consistent with all other relevant section 117 directions.

Section C - Environmental, social and economic impact

1. 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 critical habitat within the Council area.

The land affected by Item 12 in Appendix B contains a mixture of vegetation communities, including 17.5 Ha of Flax-leaved Paperbark - Mixed Eucalypt Forests Complex (*Melaleuca linariifolia*), which is a Subtropical Coastal Floodplain Forest endangered ecological community. The total site area is 99.5 Ha, which provides scope to ensure that future land uses do not disturb the EEC.

The southern area of land in Item 13 (extensions to SP2 zoning for Port Macquarie Airport) in Appendix B adjoins Broad-leaved Paperbark Woodlands & Forests (*Melaleuca quinquenervia*), which is a Swamp Sclerophyll Forest on Coastal Floodplains endangered

ecological community. The proposed southern boundary of the SP2 Infrastructure zone coincides with the boundary of *SEPP No 14 Coastal Wetlands*, other than a 525 sq m area approved for clearing in Development Application 2001-0438.

Given the general nature of some of the other changes (particularly to the Land Use Table), it is possible that there could be other land that is affected by this planning proposal and that contains threatened species, populations or ecological communities, or their habitats. However, it is anticipated that statutory requirements will ensure appropriate considerations and protection in relation to any future development proposal.

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

There will be negligible other environmental effects.

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

There will be no adverse social effects, and the economic effects will be to:

- Remove the need for approvals for farm dams that satisfy the requirements, and
- Remove delays for development that would have been held up while anomalies in the Land Use Table were rectified.

Section D - State and Commonwealth interests

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

This planning proposal does not bring about any demand for additional public infrastructure.

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

[To be updated following Gateway determination and any subsequent consultation.]

Part 4 – Community Consultation

The proposal is considered to have relatively low impact, that still requires community consultation.

While there would be public notice of the public exhibition, it is considered not necessary to notify the affected landowners where:

- The textual or mapping change covers a wide area and has minor impacts, or
- The land is owned or under the control of Council.

It is considered that owners of adjoining land only need be notified of the public exhibition in cases where there is potential for increased or change of land use.

This is summarised in the table below.

Appendix B Item	Notify Owner	Notify Neighbours
1 Land Use Table: Airstrips	N	N
2 Land Use Table: Helipads	N	N
3 Land Use Table: Home-based child care	N	N
4 Land Use Table: Home industries	N	N
5 Land Use Table: Horticulture	N	N

Appendix B Item	Notify Owner	Notify Neighbours
6 Land Use Table: Roadside stall	N	N
7 Land Use Table: Vehicle repair station	N	N
8 Clause 5.6 Architectural roof features	N	N
9 Schedule 2 Exempt Development: farm dams	N	N
10 47 Cowarral Circ, Wauchope	Y	N
11 Tennis complex, Orara St, Kendall	N*	Y
12 Pacific Parkway, Lake Innes: recreation facilities (outdoor)	N*	Y
13 Port Macquarie Airport expansion: LEP update	N*	Y
14 Sunset Parade, Port Macquarie	N	Y
15 2394 Oxley Highway, Wauchope	Y	N
16 Floor Space Ratio Map anomalies, Port Macquarie	N	N

* Council is the landowner.

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

- Public notice of the exhibition in a local newspaper circulating in the area.
- Notification of landowners as per the table above.
- Public exhibition for two weeks.

Contact Details

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Appendix A – List of proposed amendments

A. Changes to text

Provision	Changes	Appendix B - details reference
Land Use Table – Airstrips	- Make Permitted with consent in Zones RU1 and RU2 (by inserting in Item 3 for each zone). - Make Prohibited in Zones R1, R3, R4, R5, B1, B2, B3, B4, B5, B7, IN1, IN2, IN3 and W2 (by inserting in Item 4 for each zone).	1
Land Use Table - Helipads	- Make Permitted with consent in Zones RU6 and IN4 (by inserting in Item 3 for each zone). - Make Prohibited in Zones RU5, R3, R4, R5, B1, B2, B3, B4, B5 and IN2 (by inserting in Item 4 for each zone).	2
Land Use Table – Home-based child care	Make Permitted with consent in Zones RU1 and RU2 (by inserting in Item 3 for each zone).	3
Land Use Table – Home industries	Make Permitted with consent in Zones RU1 and RU2 (by inserting in Item 3 for each zone).	4
Land Use Table – Horticulture	Make Permitted with consent in Zone E4 (by inserting in Item 3).	5
Land Use Table – Roadside stall	Make Permitted with consent in Zone RU2 (by inserting in Item 3).	6
Land Use Table – Vehicle repair stations	Make Permitted with consent in Zone B5 (by removing from Item 4).	7
Cl 5.6 Architectural roof features	Insert at the end of the clause objective in paragraph (1)(c): “and minimise the adverse impact on the natural landscape, important public view corridors and views from surrounding land.”	8
Sch 1 Additional permitted uses	Insert the following: 5 Use of certain land on Pacific Parkway, Lake Innes (1) This clause applies to the land being Lot 12, DP 871968 and Lot 1, DP 722728, Pacific Parkway, Lake Innes, as shown as “Item 5” on the Additional Permitted Uses Map. (2) Development for the purposes of recreation facilities (outdoor) is permitted with development consent.	12
Sch 2 Exempt development – Farm dams	Insert the following: Dams (Zones RU1, RU2 & RU6) (1) Maximum embankment fill batter grades—1 (vertical):2.5 (horizontal). (2) Minimum distance from property boundary at closest point—10m. (3) Minimum fill embankment crest width—3m. (4) Minimum height difference between the embankment crest level and the spillway level—1m. (5) Maximum fill embankment height, as measured from ground level (existing) immediately down slope of the embankment to the top of the embankment crest level—3m. (6) Must not be in any area identified on the Acid Sulfate Soils Map. (7) Maximum capacity of water storage—3ML. (8) Must not be constructed in a watercourse. (9) Must not be within 40m of any part of an onsite sewerage management system.	9

B. Changes to Map Sheets

The following map sheets are revoked:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map		
LZN_010B	6380_COM_LZN_010B_020_2010202	10
LZN_011B ^{8, 11}	6380_COM_LZN_011B_020_20110124	11
LZN_013C	6380_COM_LZN_013C_020_20110523	13
LZN_013D ¹⁵	6380_COM_LZN_013D_020_20110524	13
LZN_013FA	6380_COM_LZN_013FA_010_20110517	14
Lot Size Map		
LSZ_010B	6380_COM_LSZ_010B_020_20110614	10
LSZ_013C	6380_COM_LSZ_013C_020_20110614	13
LSZ_013D	6380_COM_LSZ_013D_020_20110616	13
Acoustic Controls Map^A, Coastal Erosion Map, Visually Sensitive Land Map		
CL1_013C ^{8, 14}	6380_COM_CL1_013C_020_20110519	15
CL1_013D ^{8, 14}	6380_COM_CL1_013D_020_20110523	15
CL1_013E ^{8, 14}	6380_COM_CL1_013E_020_20110901	15
Additional Permitted Uses Map^A		
APU_011B	6380_COM_APU_011B_020_20110202	12
APU_013D	6380_COM_APU_013D_020_20110202	12
APU_013FA	6380_COM_APU_013FA_010_20110202	12
Floor Space Ratio Map		
FSR_010B	6380_COM_FSR_010B_020_20110517	10
FSR_013FA	6380_COM_FSR_013FA_010_20110518	16
FSR_013G	6380_COM_FSR_013G_010_20110517	16

Notes: This list may need to be updated for other amendments finalised prior to this amendment. These include:

Amend No	Council reference	DP&I reference	+ proposed new sheets
8	RA2005-0003	G04/00114	CL1_011B
11	PP2007-0011	10/14306	
14	PP2012-0002	12/02891	CL1_014B
15	PP2011-0015	12/05554	

A – All sheets in this map series have to be replaced to incorporate a new sheet in the series.

The following map sheets are adopted:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map		
LZN_010B	6380_COM_LZN_010B_020_2012*	10
LZN_011B	6380_COM_LZN_011B_020_2012*	11
LZN_013C	6380_COM_LZN_013C_020_2012*	13
LZN_013D	6380_COM_LZN_013D_020_2012*	13
LZN_013FA	6380_COM_LZN_013FA_010_2012*	14
Lot Size Map		
LSZ_010B	6380_COM_LSZ_010B_020_2012*	10
LSZ_013C	6380_COM_LSZ_013C_020_2012*	13
LSZ_013D	6380_COM_LSZ_013D_020_2012*	13

Map sheets	Map sheet identifier	Appendix B - details reference
Acoustic Controls Map, Coastal Erosion Map, Visually Sensitive Land Map		
CL1_010B	6380_COM_CL1_010B_020_2012*	15
CL1_013C	6380_COM_CL1_013C_020_2012*	15
CL1_013D	6380_COM_CL1_013D_020_2012*	15
CL1_013E	6380_COM_CL1_013E_020_2012*	15
Additional Permitted Uses Map		
APU_011B	6380_COM_APU_011B_020_2012*	12
APU_013	6380_COM_APU_013_020_2012*	12
APU_013D	6380_COM_APU_013D_020_2012*	12
APU_013FA	6380_COM_APU_013FA_010_2012*	12
Floor Space Ratio Map		
FSR_010B	6380_COM_FSR_010B_020_2012*	10
FSR_013FA	6380_COM_FSR_013FA_010_2012*	16
FSR_013G	6380_COM_FSR_013G_010_2012*	16

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

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

Appendix B – Details of proposed amendments

Item Nos 1 to 7 – Land Use Table changes: Overview

Issue

The LEP was finalised in February 2011, and subsequently amendments made to the Standard LEP template were incorporated. These amendments clarified the understandings of the relationships between differing land use terms, including giving some land uses unintended permissibilities or prohibitions.

The table below shows the current permissibilities and prohibitions for several land use terms, together with proposed changes in bold.

Zone Group:	RU - Rural					R – Residential					B – Business							IN – Industrial				SP	RE		E				W		
	1	2	3	5	6	1	2	3	4	5	1	2	3	4	5	7	1	2	3	4	3	1	2	2	3	4	1	2	3		
Airstrip	X C	X C	X	X	X	C X	X	C X	C X	C X	C X	C X	C X	C X	C	C X	C X	C X	X	X	X	X	X	X	X	X	X	C X	X		
Helipad	C	C	X	C X	X C	X	X	C X	C X	C X	C X	C X	C X	C X	C	C	C X	C	X C	X	X	X	X	X	X	X	X	X	C		
Home-based child care	X C	X C	X	O	X	O	O	O	O	O	O	O	O	O	X	X	X	X	X	X	X	X	X	X	X	C	C	X	X	X	
Home industry	X C	X C	X	C	X	C	C	X	X	X	X	X	X	X	C	C	C	C	X	C	X	X	X	X	X	X	X	X	X	X	
Horticulture	O	O	X	C	O	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	C X	X	X	X		
Roadside stall	C	X C	X	X	X	X	X	X	X	X	X	C	C	C	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Vehicle repair station	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X C	X	C	C	C	X	X	X	X	X	X	X	X	X	X	X	

Notes to Table:

- Zone Group abbreviations: SP – Special Purpose; RE – Recreation; E – Environment Protection; W – Waterways.
- Zone labels consist of 1-2 letters and a single digit number, eg the first Rural zone abbreviation is RU1. For the full listing of land use zone names refer to clause 2.1 of the LEP.
- LEP 2011 does not use Zones RU4 or B6. Zones SP1, SP2 and E1 are not listed, as the content of the Land Use Table for those zones cannot be altered by Council.
- Some of the permissibilities and prohibitions are mandated by the Standard LEP template. Council is not able to change such details.
- The permissibility code is: O – Permitted without consent
C – Permitted only with consent
X – Prohibited.
- A proposed change to permissibility/prohibition is identified by a shading over the current code, and the proposed new permissibility/prohibition below in **bold**.

Relevant details for each of the land use terms are discussed below.

Affected land

In each case the affected land is the land subject to the relevant zone for which the change in the Land Use Table is proposed.

Any Council interest

Given the general nature of the proposed changes to the Land Use Table, it is likely that Council would have interest in land that could be affected. However, these proposals have been prepared without regard to any such interests.

Item No 1 – Land Use Table: Airstrips

Definition

airstrip means a single runway for the landing, taking off or parking of aeroplanes for private aviation only, but does not include an airport, heliport or helipad.

Issue

It is now explicit that Airstrips are not part of a group term, and therefore need to be specifically listed. Currently the permissibilities of Airstrips is generally inconsistent with the intent of many zones. Refer to the Overview above.

Recommendation

In the Land Use Table, in relation to Airstrips:

- Make Permitted with consent in Zones RU1 and RU2 (by inserting in Item 3 for each zone).
- Make Prohibited in Zones R1, R3, R4, R5, B1, B2, B3, B4, B5, B7, IN1, IN2, IN3 and W2 (by inserting in Item 4 for each zone).

Item No 2 – Land Use Table: Helipads

Definition

helipad means a place not open to the public used for the taking off and landing of helicopters.

Issue

It is now clear that Helipads are not part of a group term, and therefore need to be specifically listed. Currently the permissibilities of Helipads are generally inconsistent with the intent of many zones. Refer to the Overview above.

Recommendation

In the Land Use Table, in relation to Helipads:

- Make Permitted with consent in Zones RU6 and IN4 (by inserting in Item 3 for each zone).
- Make Prohibited in Zones RU5, R3, R4, R5, B1, B2, B3, B4, B5 and IN2 (by inserting in Item 4 for each zone).

Item No 3 – Land Use Table: Home-based child care

Definition

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.

Issue

Home-based child care is exempt development under *SEPP (Exempt and Complying Development Codes) 2008*, subject to the relevant restrictions on exempt development. One specific restriction is that it cannot be carried out on bush fire prone land. Therefore it would seem unnecessary to make Home-based child care permissible under the LEP.

A situation has arisen where a rural property is partially bush fire prone, although there was no bush fire risk to the area proposed for home-based child care. It is reasonable for such activities to be permissible with a merit-based development consent. Refer to the Overview above.

Recommendation

In the Land Use Table, in relation to Home-based child care:

- Make Permitted with consent in Zones RU1 and RU2 (by inserting in Item 3 for each zone).

Item No 4 – Land Use Table: Home industries

Definition

home industry means a dwelling (or a building ancillary to a dwelling) used by one or more permanent residents of the dwelling to carry out an industrial activity that does not involve any of the following:

- (a) the employment of more than 2 persons other than those residents,
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, traffic generation or otherwise,
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter,
- (d) the exhibition of any signage (other than a business identification sign),
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building,

but does not include bed and breakfast accommodation or sex services premises.

Note. See clause 5.4 for controls relating to the floor area used for a home industry.
Home industries are a type of light industry—see the definition of that term in this Dictionary.

Issue

There is no problem with Home industry in rural zones – everywhere it is subject to the limitations of the definition and to a maximum size of 60 sq m (refer to LEP clause 5.4 (2)). However, home industries are a type of light industry, which are prohibited within the rural zones.

It is reasonable to allow for home industries to be permissible with development consent within zones RU1 and RU2. Refer to the Overview above.

Recommendation

In the Land Use Table, in relation to Home industry:

- Make Permitted with consent in Zones RU1 and RU2 (by inserting in Item 3 for each zone).

Item No 5 – Land Use Table: Horticulture

Definition

horticulture means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include a plant nursery, turf farming or viticulture.

Note. Horticulture is a type of *intensive plant agriculture*—see the definition of that term in the Dictionary.

Issue

The Environmental Protection zones include E3 Environmental Management and E4 Environmental Living, both of which have zone objectives relating to protecting special ecological, scientific or aesthetic values. Generally protection of those values is given higher importance in the E3 zone. Dwelling houses are permitted with consent in both zones.

Horticulture is permitted with consent in the E3 zone, but not in the E4 zone. It is considered reasonable to permit horticulture with consent in the E4 zone. Any consent would involve consideration of the suitability of the horticulture for the specific characteristics of the site – issues of potential spread of non-native plants into the surrounding area and of leaching of fertilisers would need to be considered.

Recommendation

In the Land Use Table, in relation to Horticulture:

- Make Permitted with consent in Zone E4 (by inserting in Item 3).

Item No 6 – Land Use Table: Roadside stall

Definitions

roadside stall means a place or temporary structure used for the retail sale of agricultural produce or hand crafted goods (or both) produced from the property on which the stall is situated or from an adjacent property.

Note. See clause 5.4 for controls relating to the gross floor area of roadside stalls.

Roadside stalls are a type of retail premises—see the definition of that term in the Dictionary.

Issue

The standard LEP template mandates that roadside stalls be permissible in Zone RU1 Primary Production. They not been listed for Zone RU2 Rural Landscape, which means they are prohibited, though theoretically they can be allowed as an ancillary use to agriculture.

However, the discrepancy between RU1 and RU2 could cause confusion, and it is considered preferable to specifically list roadside stalls as permitted with consent in the RU2 zone.

Recommendation

In the Land Use Table, in relation to Roadside stalls:

- Make Permitted with consent in Zone RU2 (by inserting in Item 3).

Item No 7 – Land Use Table: Vehicle repair station

Definitions

vehicle body repair workshop means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel building, panel beating, spray painting or chassis restoration.

vehicle repair station means a building or place used for the purpose of carrying out repairs to, or the selling and fitting of accessories to, vehicles or agricultural machinery, but does not include a vehicle body repair workshop or vehicle sales or hire premises.

Issue

At present both Vehicle body repair workshops and Vehicle repair stations are permitted only in the IN1 General Industrial, IN2 Light Industrial and IN3 Heavy Industrial zones. Light industries are also permitted in RU5 Village, B5 Business Development, B7 Business Park and IN4 Working Waterfront zones.

Currently the B5 zone is used along parts of Hastings River Drive and within the Lake Road industrial area, particularly to identify bulky goods premises precincts. Given the low key operations permitted within a vehicle repair station, it is considered reasonable to make them also permissible within Zone B5.

Recommendation

In the Land Use Table, in relation to Vehicle repair stations:

- Make Permitted with consent in Zone B5 (by removing from Item 4).

Item No 8 – Clause 5.6 Architectural roof features

Current provisions

5.6 Architectural roof features

- (1) The objectives of this clause are as follows:
 - (a) to ensure that architectural roof features to which this clause applies are decorative elements only,
 - (b) to ensure that the majority of the roof features are contained within the prescribed building height,
 - (c) to facilitate quality urban design by enabling the design of buildings to include roof features that enhance the appearance of buildings.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
 - (a) the architectural roof feature:
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and
 - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

Issue

Clause 4.3 and the Height of Buildings Map regulate the height of buildings, measured to the top of the roof, though excluding certain fittings - refer to the definition of building height.

Clause 5.6 allows some discretion for architectural roof features to be used in a building design, irrespective of the clause 4.3 and the definition of building height. Without this, there could be excessive use of flat roofs. The clause is optional, though if used, the only provisions that Council can vary are the objectives in subclause (1).

It is considered that an additional objective could be added, relating to protection of significant public view corridors. There is no automatic right to private views, though the objective could be relevant when assessing whether an architectural roof feature is excessive.

Affected land

The clause does not apply to any specific land, but could potentially be applied to any land to which the Height of Buildings Map applies.

Any Council interest

Given the general nature of this proposal, it is likely that Council would have interest in land that could be affected. However, this proposal has been prepared without regard to any such interest.

Recommendation

In Clause 5.6 Architectural roof features, add to the end of subclause (1)(c) the following:

“ and minimise the adverse impact on the natural landscape, important public view corridors and views from surrounding land”.

Item No 9 – Schedule 2 Exempt Development: farm dams

Issue

Clause 7.2 requires consent for earthworks (ie excavation or filling) unless it is exempt development or ancillary to other development that has a consent. This means that currently construction of farm dams requires consent.

It is considered desirable to permit smaller farm dams without consent, where certain requirements are satisfied.

Affected land

This proposed provision is relevant to all land zoned RU1, RU2 or RU6.

Any Council interest

Given the general nature of this proposal, it is likely that Council would have interest in land that could be affected. However, this proposal has been prepared without regard to any such interest.

Recommendation

In Schedule 2 Exempt Development, insert the following:

Dams (Zones RU1, RU2 & RU6)

(1) Maximum embankment fill batter grades—1 (vertical):2.5 (horizontal).

- (2) Minimum distance from property boundary at closest point—10m.
- (3) Minimum fill embankment crest width—3m.
- (4) Minimum height difference between the embankment crest level and the spillway level—1m.
- (5) Maximum fill embankment height, as measured from ground level (existing) immediately down slope of the embankment to the top of the embankment crest level—3m.
- (6) Must not be in any area identified on the Acid Sulfate Soils Map.
- (7) Maximum capacity of water storage—3ML.
- (8) Must not be constructed in a watercourse.
- (9) Must not be within 40m of any part of an onsite sewerage management system.

Item No 10 – 47 Cowarral Circ, Wauchope

Issue

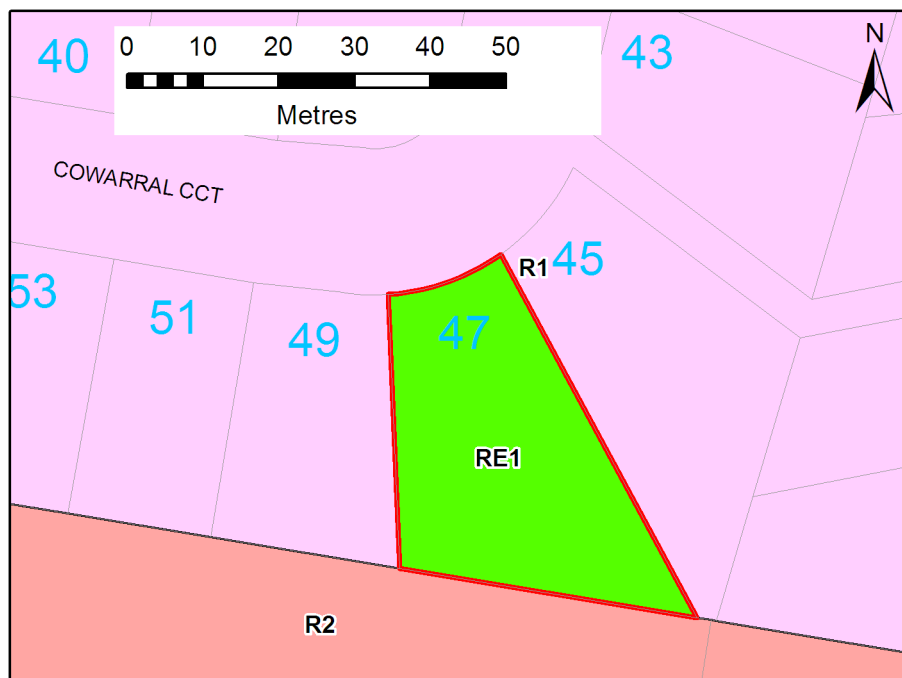
Lot 216 DP 802543 Cowarral Circuit, Wauchope is within a residential area and contains a dwelling house. It is not and has neither been owned by Council, but in LEP 2001 it was zoned 6(a) Open Space. This error was carried forward in LEP 2011 (refer to map sheet 010B), with the following matters requiring correction:

- Land Zone Map – change RE1 Public Recreation to R1 General Residential,
- Lot Size Map - apply a minimum lot size of 450 m² (Code G), and
- Floor Space Ratio Map – apply a minimum floor space ratio of 0:65:1 (Code G).

The maximum height limit of 8.5 m in the area extends over this parcel, so there is no need to amend the Height of Buildings Map.

Affected land

The relevant land is Lot 216 DP 802543 No 47 Cowarral Circuit, Wauchope, as shown with the RE1 zoning on the map below.



Any Council interest

Council does not have any interest in this land.

Recommendation

That in relation to Lot 216 DP 802543 No 47 Cowarral Circuit, Wauchope, the LEP maps be amended as follows.

- Land Zone Map – change RE1 Public Recreation to R1 General Residential,
- Lot Size Map - apply a minimum lot size of 450 m² (Code G), and
- Floor Space Ratio Map – apply a minimum floor space ratio of 0:65:1 (Code G).

Item No 11 – Tennis complex, Orara St, Kendall

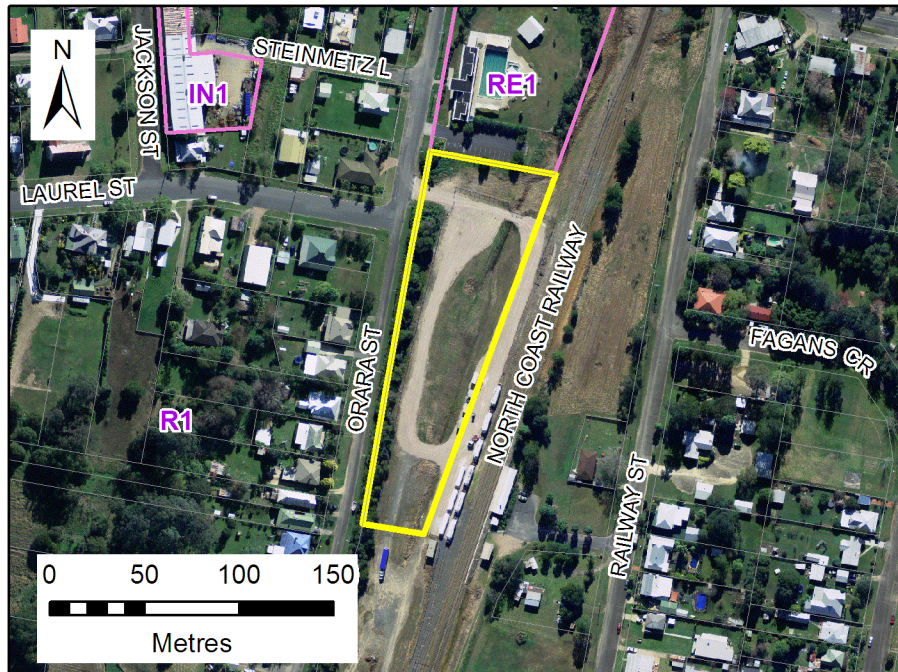
Issue

Council has been involved in negotiations with the State Rail Authority to purchase part of their land (part of Lot 1 DP 881120) south of the Kendall pool, for use for community tennis courts. At its meeting on 15 February 2012 Council resolved to purchase part of Lot 1.

The land is zoned R1 General Residential, which does not permit this use. It is proposed to rezone this land to RE1 Public Recreation.

A consultancy report has concluded that there is no evidence of soil contamination that would make the site unsuitable for this use.

Affected land



If the formal plan of subdivision is available prior to finalisation of this planning proposal, the boundaries will be aligned with that plan.

Any Council interest

Council has an interest in land in the purchase of this land in order to provide community facilities.

Recommendation

That in relation to the proposed site of the Kendall community tennis courts, being part Lot 1 DP 881120, (map sheet 011B):

- the Land Zoning Map be amended to zone this land RE1 Public Recreation.

Item No 12 – Pacific Parkway, Lake Innes: recreation facilities (outdoor)

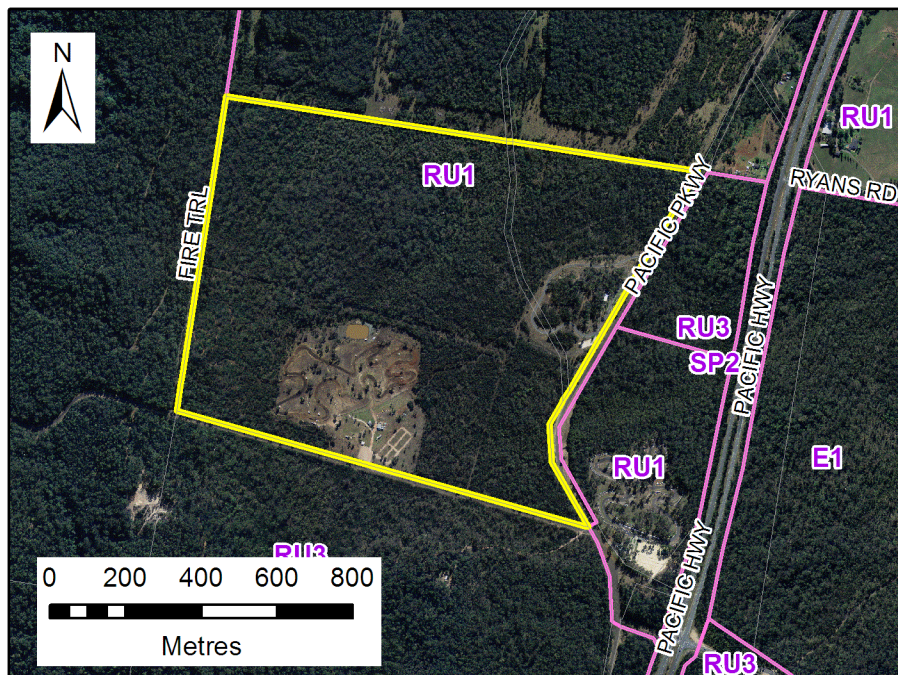
Issue

Lot 12 DP 871968 (PIN 32583) and Lot 1 DP 722728 (PIN 29605, closed road) are owned by Council and currently are partly used for a criterium track and a motorcycle track. The land is currently zoned RU1 Primary Production.

The Extreme Velocity wind tunnel operation north of the Port Macquarie airport cannot remain in that location, and relocation to this land is proposed. Subject to an amendment to the LEP, this proposal could be conditionally approved.

Limited recreational uses can be permitted on the site, subject to adequate environmental controls. However it is not considered appropriate to simply zone the site for recreational uses. Therefore it is proposed to seek to amend the LEP to permit recreation facilities (outdoor) as an additional permitted use for this land.

Affected land



Any Council interest

Council owns this land and is seeking to facilitate additional recreational uses upon this land.

Recommendation

That in relation to Lot 12 DP 871968 and Lot 1 DP 722728, Pacific Parkway, Lake Innes (map sheet 013):

- Schedule 1 of the LEP text be amended to permit recreation facilities (outdoor) as an additional permitted use, and
- the Additional Permitted Use Map be amended to identify this land in conjunction with the Schedule 1 details.

Item No 13 – Port Macquarie Airport expansion: LEP update

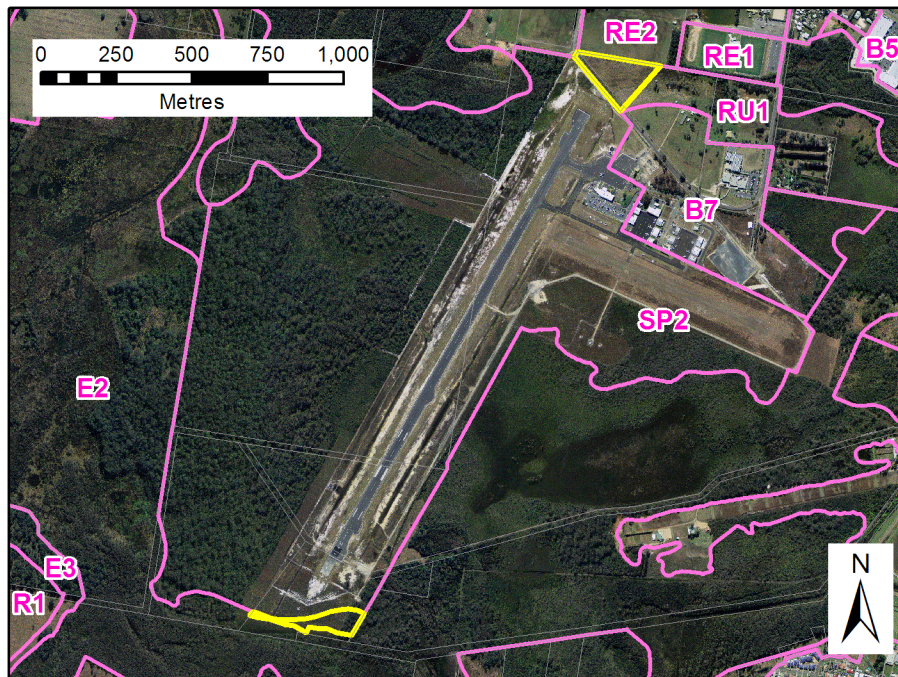
Issue

Council is working towards expansion of the Port Macquarie Airport, including extending the operational area beyond the land currently zoned SP2 Infrastructure “Air transport facility”. On 15 February 2012 the Northern Regional Joint Planning Panel approved the expansion works within Development Application DA2011-0438.

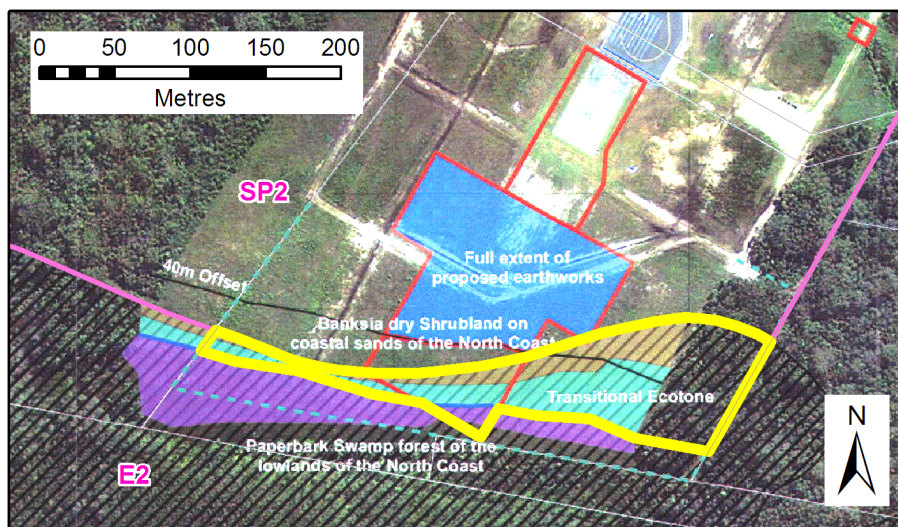
It would be appropriate to revise the Land Zoning Map and Lot Size Map to reflect the future extent of the airport operations.

The proposed new SP2 boundary of the southern area is based on the development consent having regard to adjoining *SEPP No 14 – Coastal Wetlands*, and an area to be kept cleared for airport operational reasons.

Affected land



Details of the southern area are shown on the map following. The Coastal Wetland vegetation is shown by the mauve shading. The southern area enclosed by a red line is to be kept clear of vegetation.



Any Council interest

Council owns this land, and operates an airport upon it. Council is implementing an airport development strategy. The proposed change reflects some of that change, but is not specifically required to allow strategy implementation.

Recommendation

That in relation to the Port Macquarie Airport expansion (map sheets 013C and 013D), and subject to the assessment of DA2011-0438:

- the Land Zoning Map be amended to zone the additional operational airport land as SP2 Infrastructure "Air transport facility", and

- the Lot Size Map be amended to remove minimum lot restrictions over the same area.

Item No 14 – Sunset Parade, Port Macquarie

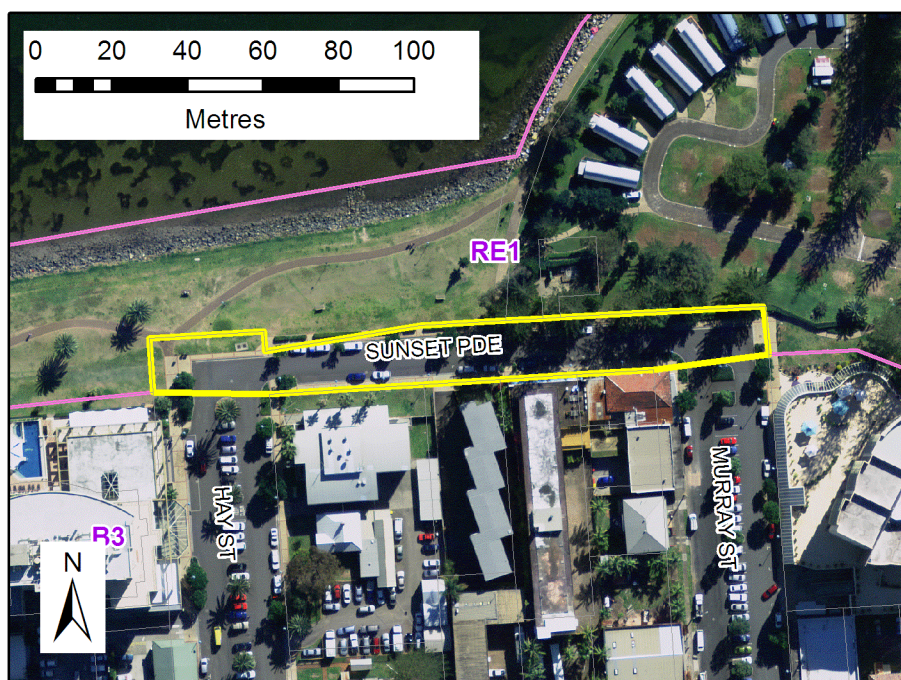
Issue

Sunset Parade is located between the Port Macquarie CBD and part of Town Green. Currently the zone boundary is on the southern side of Sunset Parade, which means that Sunset Parade is zoned RE1 Public Recreation.

There is the possibility of applications for business use of the footpath, but the current zoning would preclude most such uses.

It is considered appropriate to move the zone boundary to the northern side of Sunset Parade.

Affected land



Note the proposed northern boundary follows an existing cadastral boundary.

Any Council interest

Council is responsible for the road, and potentially could benefit from approving any business operations that this change could permit. There are no such changes at present, and approval of any such business operation would be subject to other criteria, such as traffic flow and safety.

Recommendation

That the zoning of Sunset Parade roadway, Port Macquarie (map sheet LZN_013FA) be changed to B3 Commercial Core.

Item No 15 – 2394 Oxley Highway, Wauchope

Issue

Lot 21 DP 245751, No 2394 Oxley Highway, Wauchope, was rezoned for residential development in early 2010 as part of the Wauchope Urban Growth Strategy. The southern part of the property is vulnerable to traffic noise from the Oxley Highway, but at the time of the rezoning there were no relevant provisions in LEP 2001 to address this.

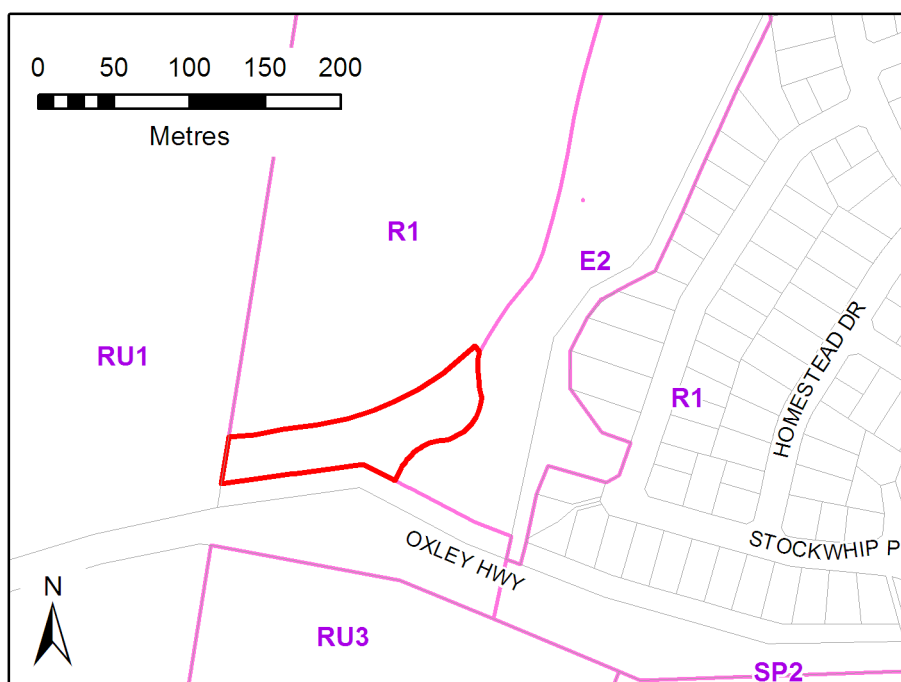
LEP 2011 contains provisions (clause 7.9 and the Acoustic Controls Map) to require additional assessment, and if necessary appropriate noise mitigation measures, for any residential or tourist development. These provisions also mean that dwellings cannot be approved as complying development, thus enabling noise mitigation assessment and measures that the CDC process cannot cover.

Consent for Development Application 2008-0019 includes assessment of the areas vulnerable to traffic noise, and includes a noise barrier to reduce the area of land affected.

It would be appropriate to identify this area on the Acoustic Controls Map, in order to ensure that any dwellings constructed within that area are subject to proper assessment and mitigation of traffic noise.

Note that this will involve creation of Map Sheet CL1_010B, and that it will be necessary to update the map series index within the existing CL1 map series.

Affected land



Any Council interest

Council does not have any interest in this land.

Recommendation

That the area still subject to traffic noise, as documented in the Road Traffic Noise Assessment report submitted with DA2008-0019, upon Lot 21 DP 245751, Oxley

Highway, Wauchope, be marked as subject to acoustic controls on the Acoustic Controls Map (map sheet CL1_010B).

Item No 16 – Floor Space Ratio Map anomalies, Port Macquarie

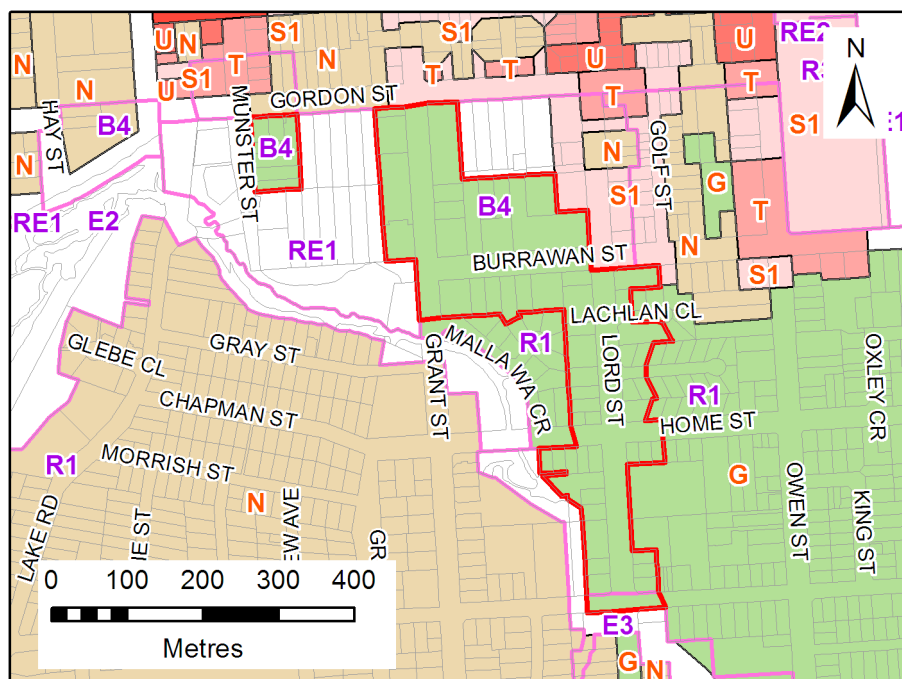
Issue

A separate LEP amendment recently changed the minimum FSR from 0.65:1 to 1:1 for land zoned R3 Medium Density Residential between Church and Gordon Streets, Port Macquarie. This was an interim step, pending a more thorough review of the package of density controls for medium and high density areas.

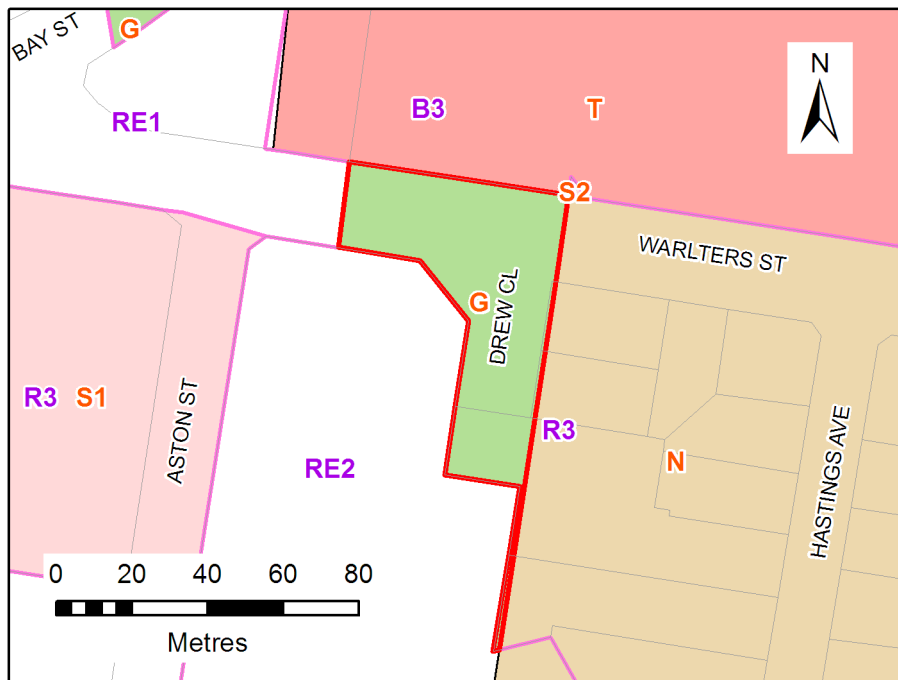
It has now been identified that there are some further areas in Port Macquarie for which the initial FSR of 0.65:1 is not appropriate, and an interim change to 1:1 (code N) is also proposed. It is not proposed to reduce any current FSRs that are higher.

Affected land

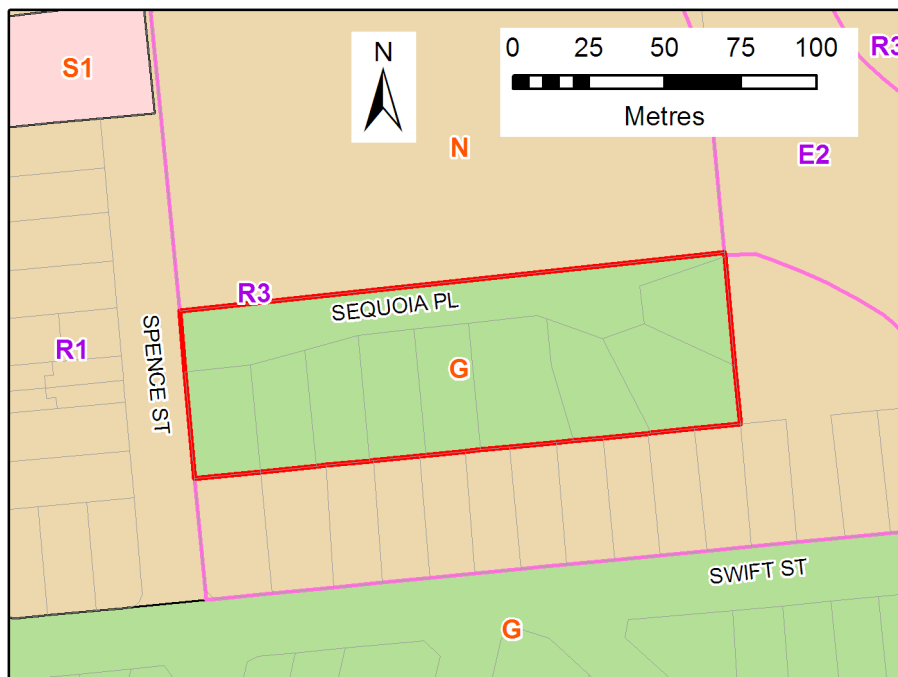
1. B4 Mixed Business land (and linking roadway), Gordon & Lord Sts (FSR_013FA)



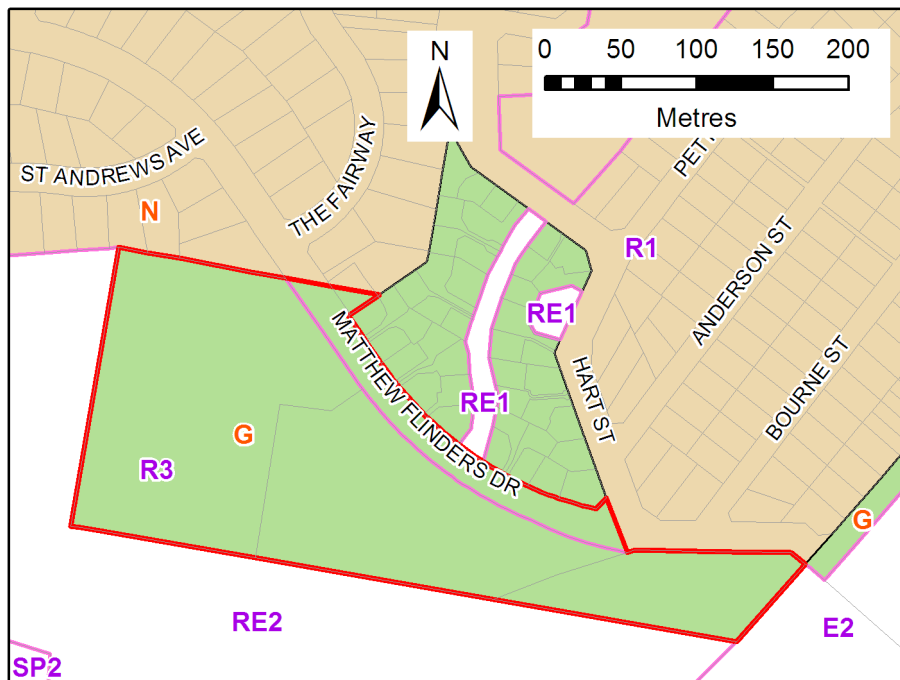
2. R3 land, at western end of Warlters St (FSR_013FA)



3. R3 land, Sequoia Pl (FSR_013G)



4. R3 land, adjoining roadway and part lot, Matthew Flinders Dr (FSR_013G)



Any Council interest

Council owns land in the Gordon/Lord/Burrawan/Grant Streets area, and potentially could benefit from this change. However, there are no current Council proposals that would be affected by this proposal.

Given the general nature of this proposal, it is likely that Council could have other interests in land affected by this proposal. However, this proposal has been prepared without regard to any such interest.

Recommendation

That the maximum Floor Space Ratio be changed to 1:1 (where not already higher) for the land zoned B4 or R3 located at Gordon and Lord Streets, Warlters Street, Sequoia Place and Matthew Flinders Drive.

Appendix C – Gateway determination

A copy of the Gateway Determination for this Planning Proposal will be included in this Appendix if the Determination (when issued) requires:

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

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

Appendix D – Site Identification Maps

When in printed form, the Site Identification Maps will follow this page.

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

Site Identification Map name	Sheet Nos	Item Nos (Appendix B)
Am 16 Site ID Sheet 010B 20120405	010B	10, 15
Am 16 Site ID Sheet 011B 20120405	011B	11
Am 16 Site ID Sheet 013 20120405	013	12
Am 16 Site ID Sheet 013C 20120405	013C	13
Am 16 Site ID Sheet 013D 20120405	013D	13
Am 16 Site ID Sheet 013FA 20120405	013FA	14, 16
Am 16 Site ID Sheet 013G 20120405	013G	16

There are no site identification maps for Items 1 to 9, relating to:

- changes to the Land Use Table affecting land within any of Zones RU1, RU2, RU5, RU6, R1, R3, R4, R5, B1, B2, B3, B4, B5, IN1, IN2, IN3, IN4, E4 and W2;
- clause 5.6 Architectural roof features – applies to land subject to clause 4.3 Height of buildings, by virtue of having a height limit shown on the Height of Buildings Map; and
- farm dams as exempt development – applies to land within any of Zones RU1, RU2 and RU6.

Appendix E – Map Cover Sheet

The Map Cover Sheet is a part of the submission of the draft LEP for formal approval by the Minister for Planning and Infrastructure or delegate.

It will not be prepared until that stage.

Where printed, the Map Cover Sheet could follow this page, just as the new map sheets to be adopted could follow the introductory page for Appendix E.

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

Note that the Map Cover Sheet will reflect the final content of the Part B Changes to Map Sheets within Appendix A.

Appendix F – Map Sheets to be adopted

Where in printed form, the relevant Map Sheets submitted for adoption will follow this page.

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

The map sheets to be adopted are listed in the Map Cover Sheet (see Appendix D) and in Appendix A - Part B Changes to Map Sheets.