

7.4 TAMWORTH REGIONAL LOCAL ENVIRONMENTAL PLAN 2010 – PLANNING PROPOSAL FOR 508-514 ARMIDALE ROAD, NEMINGHA – FILE NO SF6262

DIRECTORATE: PLANNING AND COMMUNITY SERVICES

AUTHOR: Megan Purkiss, Strategic Planner

3 ANNEXURES ATTACHED

2 CONFIDENTIAL ENCLOSURES ENCLOSED

RECOMMENDATION

That in relation to the report “Tamworth Regional Local Environmental Plan 2010 – Planning Proposal for 508-514 Armidale Road, Nemingha”, Council resolve to:

- (i) forward the planning proposal to the Department of Planning and Environment requesting a Gateway Determination in accordance with Sections 55 and 56 of the Environmental Planning and Assessment Act 1979; and*
- (ii) request that the Minister for Planning and Environment exercise their plan making powers under Section 73A of the Environmental Planning and Assessment Act 1979 and grant Council delegated authority to amend the Tamworth Regional Local Environmental Plan 2010.*

SUMMARY

The purpose of this report is to seek a resolution of Council to amend the Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010) in relation to the subject lands identified as Lots 1, 2, 3, 26 and 27 DP 37341, New England Highway, Nemingha. The Planning Proposal aims to include the parcel of land in Schedule 1 – ‘Additional Permitted Uses’ of the TRLEP 2010 to allow for the existing use of a *vehicle body repair workshop* to operate within the R1 – Residential zone.

The operation of *vehicle body repair workshop* is currently prohibited within the R1 – Residential zone. The intended outcome of this Planning Proposal is to amend the TRLEP 2010 to permit this prohibited use to continue operating within the residential zone and allow for improvements to occur to upgrade the site design, visual amenity, and vehicle accessibility.

COMMENTARY

The subject site is located within the locality of Nemingha with frontage to Armidale Road (New England Highway), a classified State Highway. The site also has a secondary frontage to Railway Street, a classified local road. The site is adjacent to a four-way intersection, which provides for traffic movements south toward Nundle, east toward Armidale, west toward the Tamworth city centre and north to Railway Street, Nemingha. A site map, aerial map and land zoning map have been **ATTACHED**, refer to **ANNEXURES 1, 2 and 3**.

The *vehicle body repair workshop* has existed on this site for an extensive period of time. Over the years the business has grown with the current operation being unable to effectively be accommodated on the site. The activities including the loading and unloading of vehicles, and the parking of client and repaired vehicles are currently undertaken on Railway Street.

Council has indicated to the owners of the subject site that any future improvements to the property would not be supported until the current operation is recognised as a permitted use with the R1 – Residential zone. The option to relocate the business to an alternative site has been determined as economically unviable by the owner. Alternatively, a Planning Proposal to list the subject site in Schedule 1 – ‘Additional

Permitted Uses' would allow the owner to continue to operate the business on the current site and comply with the provisions of the TRLEP 2010.

The amendment to the TRLEP 2010 would consequently permit an upgrade of the site. The listing of the subject site in Schedule 1 – 'Additional Permitted Uses' is not to provide an opportunity to promote an increase in the size of the operation, it is to permit improvements that will enhance the functionality of the existing premises. The Planning Proposal and proposed amendment to Schedule 1 – 'Additional Permitted Uses' has been **ATTACHED**, refer **CONFIDENTIAL ENCLOSURES 1 and 2**.

The Roads and Maritime Services (RMS) provided comment on the Planning Proposal in relation to the change of access conditions to the subject site. The correspondence suggested that should the Planning Proposal be successful to amend the TRLEP 2010, the proposed improvements would activate a disused access driveway that would facilitate the movement of vehicles through the site in a forward (one way) direction.

Entry would be from the existing Railway Street access with vehicles exiting from the driveway located within the New England Highway. Any right turn movement generated by the proposed access onto the State Highway would be constrained by the nearby intersection at Railway Street and the available sight distance to the east.

Consideration of a 'left out only' design may be appropriate to physically control traffic movement; however, this level of detail would be determined at the Development Application stage. The RMS acknowledged that by encouraging the movement of heavy vehicles to enter and exit the site in a forward motion, a significant improvement would be achieved with the existing access arrangements.

Discussions with the Department of Planning and Environment

The subject site is located within a R1 – Residential zone and is in the vicinity of a number of other zones including a B4 – Mixed Uses zone and IN1 – General Industrial zone. A *vehicle body repair workshop* is permitted within an industrial zone, however, is not permitted within a mix uses zone. As both of these zones are in close proximity to the subject site, it was considered that further investigation was required to ensure that the inclusion of the lands in Schedule 1 – 'Additional Permitted Uses' would be the most appropriate planning outcome rather than a change to the zone to accommodate the current use.

Advice was sought from the Department of Planning and Environment (the Department) regarding the inclusion of the subject site in Schedule 1 of the TRLEP 2010 and the expectation of the assessment of the Planning Proposal at the Gateway Determination stage. The Department recommended that further research be undertaken by Council with the main focus being isolated to the eastern Nemingha gateway. It was agreed that a strategic approach would be required to determine future potential development that may locate within the area and associated impacts including increased traffic movements.

It was also considered that the future upgrade of the existing *vehicle body repair workshop* site and the reactivation of the driveway for vehicles to enter onto the New England Highway would alter traffic conditions within the area. It was determined that additional comment was required from the RMS regarding their future priorities and planning of the eastern Nemingha gateway.

Council provided the RMS with two strategic planning scenarios in relation to the Planning Proposal and the intersection located at the eastern Nemingha gateway. These included:

Scenario One: Listing the Maher's Smash Repairs site under Schedule 1 – 'Additional Permitted Uses' of the TRLEP 2010 to ensure the use is permitted

within a residential zone and allow for an upgrade of the site. Traffic would enter from Railway Street and exist onto the New England Highway.

Scenario Two: Rezoning of the subject site to an alternative zone to accommodate the existing use. Further investigation would be required to identify an appropriate zone.

The RMS provided the following comments:

In relation to Council's proposed Strategic Planning Scenario One, Roads and Maritime Services would have no objection to the proposed inclusion of an additional permissible use for the subject property under Schedule 1 of the TRLEP 2010. This is considered an appropriate mechanism to formalise the current land use whilst managing the potential for other uses that may be considered under a higher zoning that may be incompatible with surrounding land uses.

In relation to Council's proposed Strategic Planning Scenario Two, any further investigation of a proposed change in zoning would need to consider the likely traffic impacts arising from permissible developments and would need to identify suitable infrastructure improvements to be provided by prospective Developers.

The RMS also advised that any future development applications for the subject land and/or properties surrounding the New England Highway and Nundle Road intersection will need to consider the likely impacts upon the safety and efficiency of the classified road. Any advice to prospective developers should also include consideration for rationalising and formalising access to the New England Highway frontage.

Future strategic planning of the eastern Nemingha gateway

Council's supplementary consultation with the RMS and the Department has concluded that both agencies do not object to the proposed inclusion of an additional permissible use for the subject property under Schedule 1 of the TRLEP 2010. It was also agreed that a future strategic planning approach would be required for the eastern Nemingha gateway intersection including further analysis of future development within the area, potential traffic movements and discussions with local business premises and residents.

It is proposed that further strategic analysis of the area will result in the eastern Nemingha gateway being identified in a Regional Development Strategy proposed to be commissioned in 2016-2017. The formal identification of this area within the strategy will allow Council the opportunity to rezone lands for future uses and ensure that these are in context with the existing surrounding development.

In the interim, it is recommended that the subject site be listed in Schedule 1 – 'Additional Permitted Uses' of the TRLEP 2010 to allow the existing use to continue and to allow for an upgrade of the site, which will improve the amenity and vehicle accessibility.

In order to amend the TRLEP 2010, Council is required to submit the Planning Proposal to the Department of Planning and Environment for a Gateway Determination. The proposal has been written in accordance with the Department of Planning and Environment's '*A Guide to preparing Local Environmental Plans*' and '*A Guide to preparing Planning Proposals*'. It is also supported by a contaminated site assessment report that will also be forwarded to the Department.

Council will also request the Minister for Planning and Environment to exercise their planning powers under Section 73A of the *Environmental Planning and Assessment*

Act 1979 and grant Council delegated authority to amend the TRLEP 2010. Should the Gateway Panel approve the public exhibition of the Planning Proposal, it is anticipated that the proposal would be exhibited during September/October 2014.

(a) Policy Implications

Nil

(b) Financial Implications

An application fee was lodged with the Planning Proposal in accordance with Council's fees and charges.

(c) Legal Implications

An amendment to the *Tamworth Regional Local Environmental Plan 2010* will alter the planning provisions for the subject site.

(d) Community Consultation

Community consultation requirements will be specified by the Department of Planning and Environment's gateway determination.



**Tamworth Regional
Local Environmental
Plan 2010**

Attachment 1

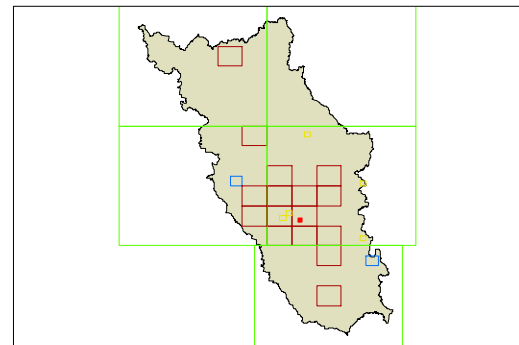
Planning Proposal
Site Identification Map
Lots 1,2,3,26 & 27 DP 37341
Armidale Road
Nemingha

Cadastre

Base Data 17/05/2013 © NSW LPI

Planning Proposal

Subject Land

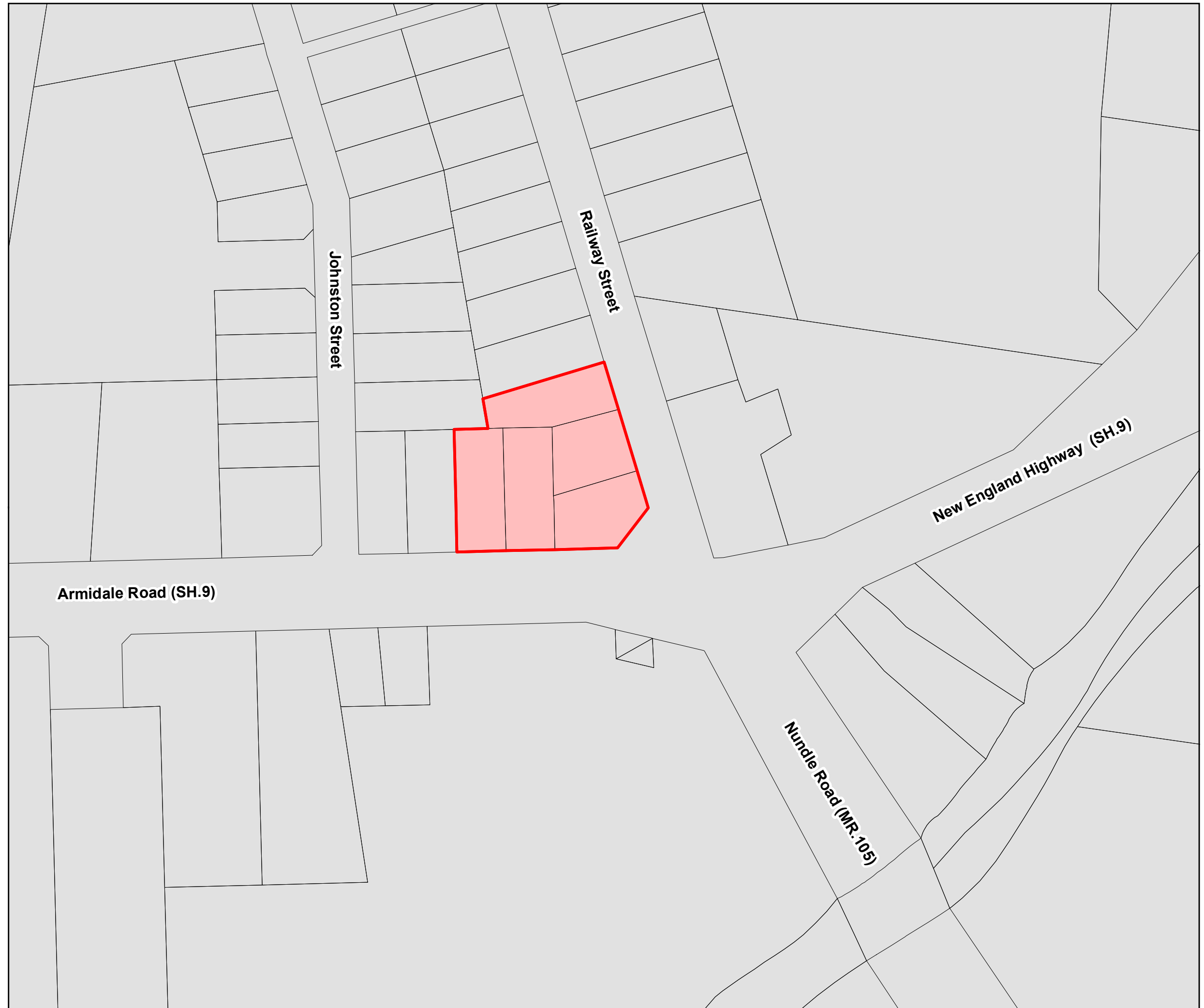


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Scale 1:1500 @ A3

Projection: GDA 1994
Zone 56

Map Identification Number





**Tamworth Regional
Local Environmental
Plan 2010**

Attachment 2

Planning Proposal
Imagery Map
Lots 1,2,3,26 & 27 DP 37341
Armidale Road
Nemingha

Cadastral

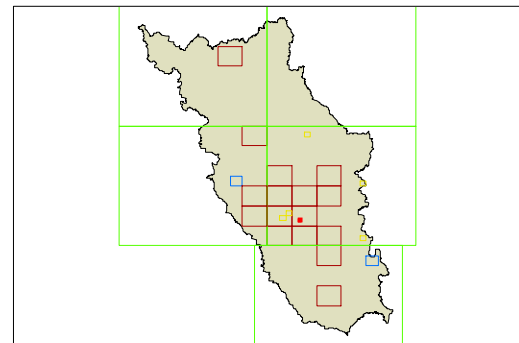
Base Data 17/05/2013 © NSW LPI

Planning Proposal

Subject Land

Aerial Imagery

March 2011, Land & Property Information NSW State Gov.



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Scale 1:1500 @ A3

Projection: GDA 1994
Zone 56

Map Identification Number





Tamworth Regional Local Environmental Plan 2010

Attachment 3

Planning Proposal
Imagery Map
Lots 1,2,3,26 & 27 DP 37341
Armidale Road
Nemingha

Zone

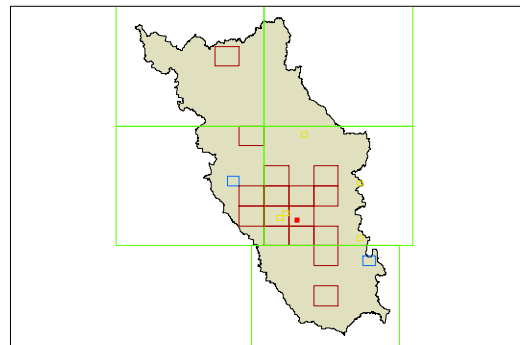
- B1** Neighbourhood Centre
- B2** Local Centre
- B3** Commercial Core
- B4** Mixed Use
- B5** Business Development
- B7** Business Park
- E1** National Parks and Nature Reserves
- E2** Environmental Conservation
- E3** Environmental Management
- IN1** General Industrial
- IN3** Heavy Industrial
- R1** General Residential
- R2** Low Density Residential
- R5** Large Lot Residential
- RE1** Public Recreation
- RE2** Private Recreation
- RU1** Primary Production
- RU3** Forestry
- RU4** Rural Small Holdings
- RU5** Village
- RU6** Transition
- SP1** Special Activities
- SP2** Infrastructure
- SP3** Tourist

Cadastre

Base Data 21/06/2011 © NSW LPMA

Planning Proposal

R1 Subject Land

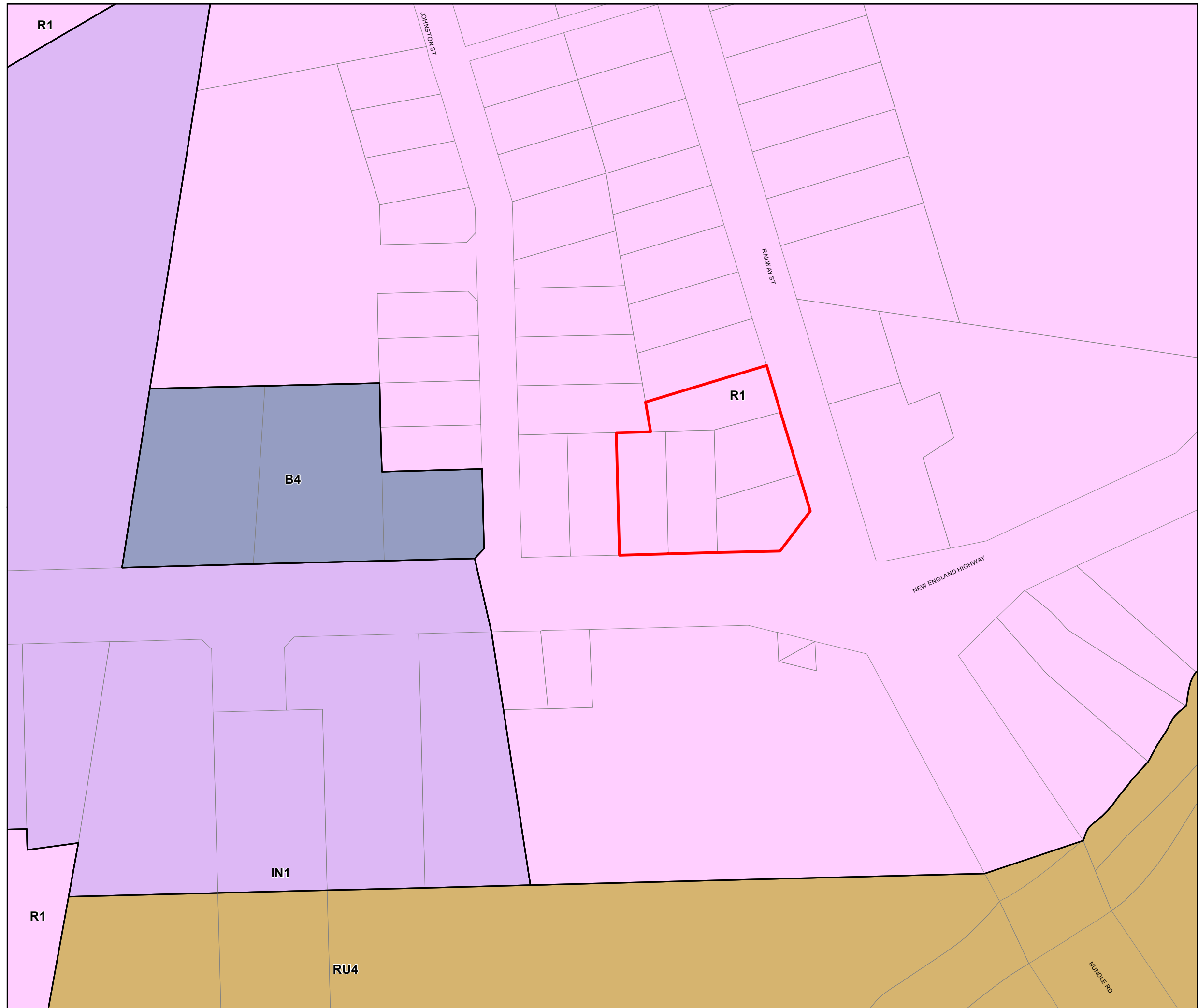


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MOTION

Moved Cr Treloar/Cr Woodley

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203/14 RESOLVED