

(FUTURE) PUBLIC EXHIBITION DATES

(Start) to (Finish)

Planning Proposal under section 55 of the EP&A Act

Port Macquarie-Hastings LEP 2011 (Amendment No 39)

South Lindfield Urban Release Area

Ccl ref: DD032.2002.00000006.001

DPI ref: PP_2016_PORTM_*

Date: 10/03/2016



**PORT MACQUARIE
HASTINGS**

Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Reported to Council (section 55)	18/11/2015
Adopted by Council & referred to Dept of Planning (sec 56 (1))	10/03/2016
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: DD032.2002.00000006.001

Port Macquarie-Hastings LEP 2011 (Amendment No 39)

Department of Planning & Environment reference: PP_2016_PORTM_*

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Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on 10 March 2016 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'.

This Planning Proposal primarily relates to the proposed rezoning of land currently zoned RU1 Primary Production to urban zones, permitting a mix of residential and light industrial uses. The details are contained in:

- Part 1: an overview
- Part 2: an explanatory summary of the relevant changes
- Part 3: an analysis and justification
- Part 4: the proposed changes to the maps within *Port Macquarie-Hastings Local Environmental Plan 2011*
- Part 5: description of the associated Development Control Plan changes, as contained in Appendix B
- Part 6: description of associated Voluntary Planning Agreements, as contained in Appendix C
- Part 7: description of an associated Koala Plan of Management, as contained in Appendix D
- Part 8: summary of proposed community consultation for this proposal
- Part 9: outline of anticipated timing for this planning proposal
- Appendices A - H: background details

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 - DD032.2002.00000006.001, and be

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

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 8529.

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Acronyms, Glossary and References

AHD - Australian Height Datum, means the reference (or datum) surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971. This provides a consistent basis for defining heights, irrespective of (changes in) ground level.

ASS - Acid sulfate soils, means naturally occurring sediments and soils containing iron sulfides (principally pyrite) and/or their precursors or oxidation products. The exposure of the sulfides to oxygen by drainage or excavation leads to the generation of sulfuric acid. “Actual acid sulfate soils” have already become acidic, which can leach into other soils or into waterways. Either way, they can damage ecosystems (eg fish kills after rain) or buried pipes or foundations. “Potential acid sulfate soils” are soils which contain iron sulfides or sulfidic material which have not been exposed to air and oxidised.

ASS can also mean the **Acid Sulfate Soils Map**, one of the map series of *LEP 2011*. Section 6 - Section 117 Ministerial Direction of Part 3 refers to this.

DCP - Development Control Plan, a policy document of Council given status under the EP&A Act to be a consideration in the determination of development applications. In this area this is [Port Macquarie-Hastings Development Control Plan 2013](#). Proposed site-specific provisions are described in **Part 5 – Development Control Plan** and **Appendix B – Draft Development Control Plan** of this planning proposal.

DP&E - the NSW Department of Planning & Environment, who have a significant role in under the EP&A Act, and who advise, and act under delegation for, the Minister of Planning.

DSP - Developer Servicing Plan, a document which details the developer charges to be levied on development areas which use a water utility’s water supply, sewerage infrastructure and/or stormwater infrastructure. This can be under either the *Local Government Act 1993* or the *Water Management Act 2000*.

DWE - the Dwelling Opportunity Map, one of the map series of *LEP 2011*. Refer to **Part 4 – Mapping**.

EEC - endangered ecological community, one of the categories of species and habitats subject to protections under the [Threatened Species Conservation Act 1995](#).

EP&A Act - the [Environmental Planning and Assessment Act 1979](#), the relevant NSW Act providing the framework for controlling planning and development within New South Wales. Refer also to **EP&A Reg** for supporting details.

EP&A Reg - the [Environmental Planning and Assessment Regulation 2000](#), which contains supporting details to the EP&A Act.

et - equivalent tenement, an infrastructure term for creating a standard measure of load for differing types of development, in relation to water and sewer services.

[Floodplain Development Manual 2005](#) - the supporting document to the NSW Flood Prone Land Policy. Relevant both to Section 117 Ministerial Direction No 4.3 and to assessment of development applications. To be read with a *Guideline on Development Controls on Low Flood Risk Areas* supplement issued in January 2007.

FSR - the **Floor Space Ratio Map**, one of the map series of LEP 2011. Refer to **Part 4 – Mapping**.

Gateway determination - the statement by the Minister, or his delegate, on the relevant steps and other requirements relating to the processing of a planning proposal - refer section 56 of the EP&A Act. The determination relevant to this planning proposal is contained in **Appendix A – Gateway Determination**.

[A guide to preparing Local Environmental Plans](#), DP&E April 2013 - provides guidance and information on the process for making local environmental plans under Part 3 of the EP&A Act.

[A guide to preparing planning proposals](#), DP&E October 2012 - provides guidance and information on the process for preparing planning proposals, in accordance with section 55 (3) of the EP&A Act.

HOB - the **Height of Buildings Map**, one of the map series of LEP 2011. Refer to **Part 4 – Mapping**.

KHA - the **Koala Habitat Map**, one of the map series of LEP 2011. Refer to **Part 4 – Mapping**.

KPoM - a **Koala Plan of Management**, prepared in accordance with the requirements of [SEPP No 44 - Koala Habitat Protection](#). Usually relates to the site of a development application, but can relate to a larger area. The draft KPoM for this proposal is described in **Part 7 – Koala Plan of Management** and **Appendix D – Koala Plan of Management**.

LEP - a **Local Environmental Plan** under the EP&A Act, providing Council-level planning controls over development, subject to any overriding SEPP controls. It consists of written text (based on the *Standard Instrument (Local Environmental Plans) Order 2006*), and several map series, the most important of which is the Land Zoning Map.

A LEP is made or amended by the processing of a Planning Proposal (such as this) in accordance with Part 3 (particularly Division 4) of the EP&A Act.

The LEP for this Council area is [Port Macquarie-Hastings Local Environmental Plan 2011](#) (sometimes abbreviated to **LEP 2011**).

LSZ - the **Lot Size Map**, one of the map series of LEP 2011. Refer to **Part 4 – Mapping**.

LZN - the **Land Zoning Map**, one of the map series of LEP 2011. This map identifies the Land Use Zone, which works with the Land Use Table within the LEP text to determine the permissibility of most development. Refer to **Part 4 – Mapping**.

[Mid North Coast Farmland Mapping Project Final Recommendations Report 2008](#) - identifies important farmland to be protected from urban and rural residential development.

MNCRS - [Mid North Coast Regional Strategy 2006-31](#), guides local planning for the Councils of the Mid North Coast. A replacement [Draft North Coast Regional Plan](#) was placed on exhibition in March 2016.

[Planning for Bushfire Protection 2006](#) is a publication from the NSW Rural Fire Service outlining the required bush fire protection measures for development applications located on land that has been designated as bush fire prone.

Planning Proposal - a document containing relevant background information about a proposed LEP or LEP amendment. The minimum requirements are set out in printed guidelines from the DP&E, though can be subject to requirements of a Gateway determination.

This Planning Proposal includes information about related development controls - DCP, KPOM and VPA - as it is appropriate they be exhibited and considered together.

PMHC - Port Macquarie-Hastings Council.

release area - the land this planning proposal applies to. Except where the context indicates otherwise, this includes the Oxley Highway and the strip of land on the northern side of the highway.

RMS - the NSW Roads and Maritime Services, who both own land partly within this release area, and who have a role in managing potential road and traffic impacts of changes to planning controls.

Section 117 Ministerial Directions - these are directions issued by the Minister Planning, and which specify State-wide requirements for planning proposals. If a proposal has an inconsistency, then the Secretary of DP&E (or his delegate) may still permit the planning proposal to proceed if the inconsistency is justified in the particular circumstances.

SEPP - a **State Environmental Planning Policy**, made under Part 3 of the EPA& Act, and overruling LEPs where there is any inconsistency. Refer to the list of SEPPs relevant to this Council area on [Council's website](#).

SPS - **sewerage pumping station**, which is used to enable sewage to a sewage treatment plant when gravity sewer mains are inadequate. The sewage then travels through a rising main under pressure, and then into a gravity main.

STP - **sewage treatment plant**, where sewage is treated and the waste water made fit for reuse or discharge. In relation to the South Lindfield release area there is a STP at the western end of Koala Street, Port Macquarie, and a proposed STP in Fernbank Creek west of the airport.

Standard Instrument (Local Environmental Plans) Order 2006 - the specification of the mandatory and discretionary content of LEP text.

Standard Technical Requirements for Spatial Datasets and Maps, DP&E November 2015 - describes the technical specifications for LEP maps and the associated digital mapping data, particularly in relation to introduction of LEP mapping into the DP&E [Planning Portal](#).

Towards 2030 Community Strategic Plan, PMHC June 2011 - Council's community strategic plan, as required by section 402 of the [Local Government Act 1993](#).

UGMS - Council's [Urban Growth Management Strategy 2011-2031](#), adopted in December 2010, and which sets the framework for major changes to the LEP and other actions to facilitate urban development within the Council area.

Vilro land - (except where the context indicates otherwise) that part of Lot 168 DP 1201505 within the release area, and generally being in the south-eastern portion.

VPA - **Voluntary Planning Agreements** between Council and landowners under Division 6 of Part 4 of the EP&A Act. Through negotiation, they allow for flexibility in

infrastructure provision or for other public purposes, which can be hard to achieve with fixed Council-wide requirements relating to infrastructure provision or funding or other implications of development. Refer to **Part 6** and **Appendix C**.

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 Environment, and (depending on the Gateway determination) used for public participation on the proposed LEP amendment.

Background

Proposal

To rezone rural-zoned land identified as 'South Lindfield' in south-west Port Macquarie to permit urban development compatible with being within a koala habitat landscape.

The fragmentation of land ownership has required some flexibility in satisfying infrastructure and environmental objectives, which are supported by:

- proposed Development Control Plan provisions
- proposed Koala Plan of Management
- proposed Voluntary Planning Agreements
- proposed Developer Servicing Plan for sewage services for a catchment including part of the subject land

Property Details

- Lot 2 DP 1177586, Holland Close
- Lot 2 DP 1186806, Oxley Highway
- Lot 21 DP 1089272, 211 John Oxley Drive
- Lot 2 DP 578793, 209 John Oxley Drive
- Lot 4 DP 630393, 12 Philip Charley Drive
- Lot 5 DP 630393, 1 Philip Charley Drive
- Lot 1 DP 533058, 175 John Oxley Drive
- Lot 2 DP 533058, 171 John Oxley Drive
- Lot 3 DP 533058, 165 John Oxley Drive
- Lot 1 DP 369206, 153 John Oxley Drive
- part Lot 168 DP 1201505, Annabelle Drive via Blackwood Street
- part Lot 1 DP 1177586, 1 Lindfield Park Road
- Lot 3 DP 773237, bounded by Oxley Highway, John Oxley Drive & Philip Charley Drive (RMS)
- Lots 4-5 DP 773237, Lots 27, 30-31 DP 1089272, Lot 36 DP 1157283 & Lot 3 DP 1186806, Oxley Highway (RMS, awaiting dedication)
- part Lot 3 DP 1105610, Blackwood Street (PMHC, contains trunk water main)
- part Lot 5 DP 1105610, Philip Charley Drive (PMHC, contains trunk water main)

Applicant Details

Port Macquarie-Hastings Council

Land owners

- Busways East Pty Ltd & others
- H L & D H Durant (2 parcels)
- D Xiao

- G B Byrne
- Scribbly Gums Holdings Pty Ltd & G R Priest & R C Patat
- K A & B K Roberts
- BaptistCare NSW & ACT
- N B & P M & P J Mann & others
- R W & J M Ramm
- Vilro Pty Ltd & Port City Developments Pty Ltd
- D L Fanning
- Roads & Maritime Services (detention basin and Oxley Highway)
- Port Macquarie Hastings Council (trunk water mains)

Brief history

The subject land was identified some years ago for urban release on the fringe of Port Macquarie.

Investigations have been delayed due to the realignment of the Oxley Highway, and to the complexity of coordinating infrastructure with multiple landowners in the release area.

This proposal incorporates the outcomes of environmental and infrastructure investigations and discussions with land owners to achieve an integrated proposal that permits urban development while also protecting key environmental habitat areas.

Location

The release area adjoins the Oxley Highway, 6 kilometres from the business centre of Port Macquarie, and just under 4 kilometres from the Pacific Highway. It straddles a low flood-free ridge, with elevations rising from 3 m AHD to 24 m AHD.

Figure 1 shows the wider context, while **Error! Reference source not found.** shows the detailed extent.

More detailed maps are included in **Part 4 - Mapping**.

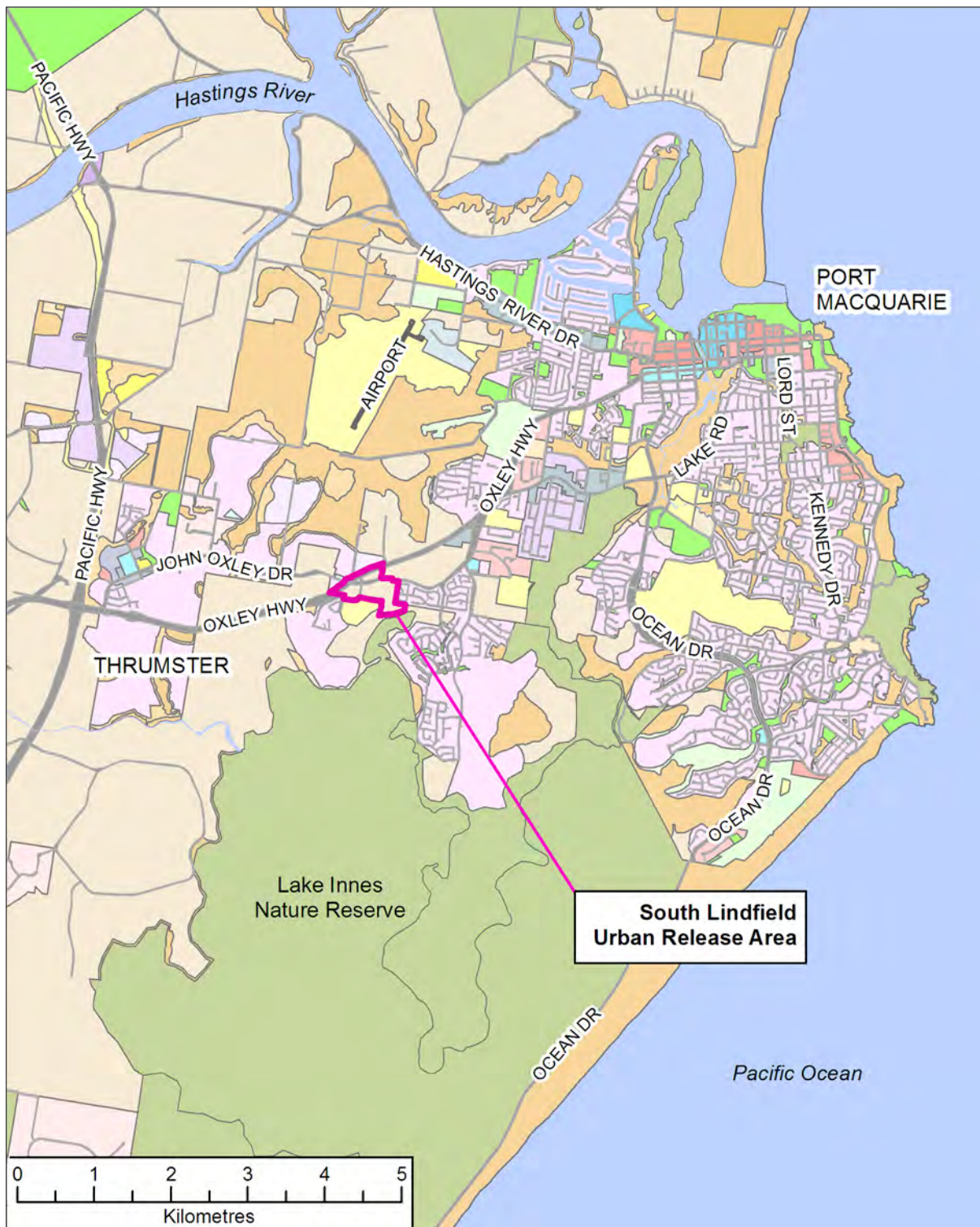


Figure 1 Location of South Lindfield area

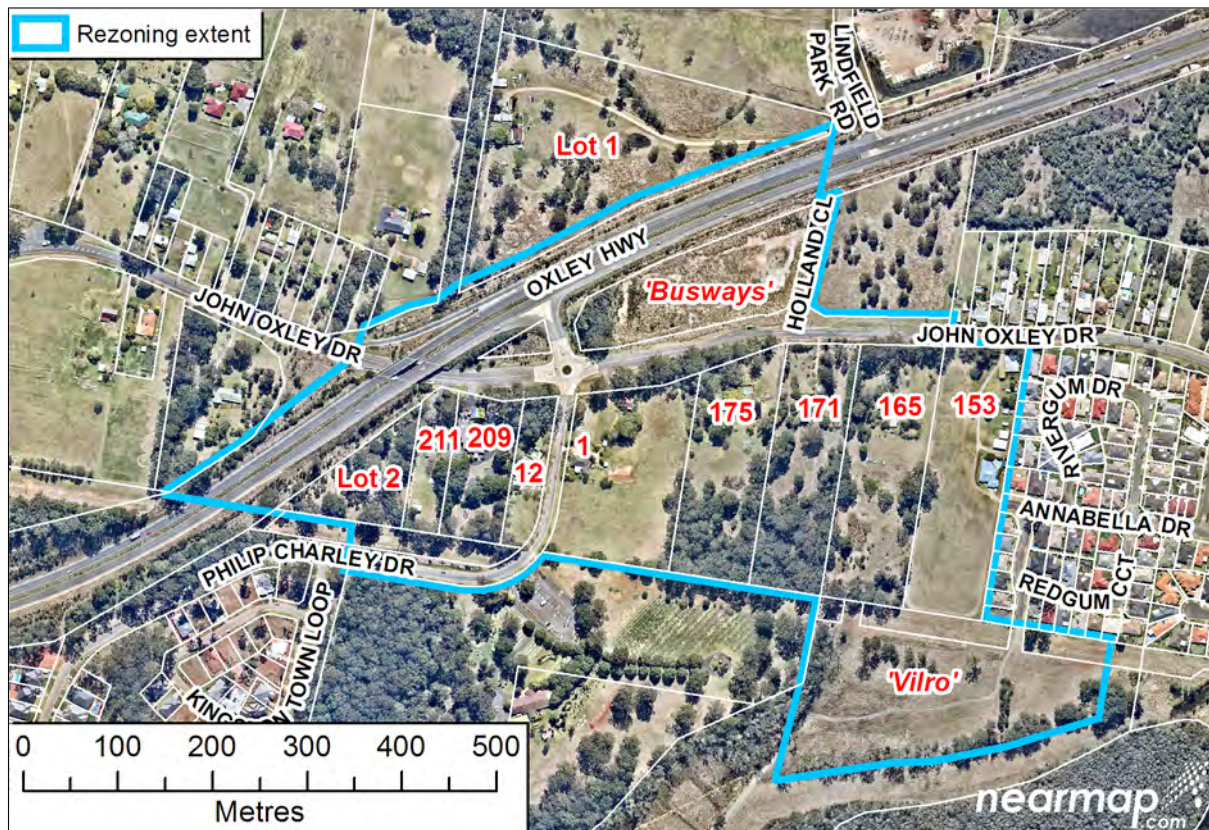


Figure 2 Rezoning extent (Nearmap image - September 2015)

Part 1 - Objectives or Intended Outcomes

The intended outcome is urban development of the subject land that is:

- able to be serviced with essential infrastructure
- compatible with the local environment
- well designed to facilitate social wellbeing, and
- compatible with surrounding land uses.

The objective is to provide a set of planning and other controls that enable urban development of the relevant land to take place on a basis that achieves those outcomes.

Part 2 - Explanation of Provisions

The intended outcomes will be achieved by the following provisions

- 1) Approval of changes to *Port Macquarie-Hastings Local Environmental Plan 2011* map series:
 - a) Land Zoning Map
 - b) Lot Size Map
 - c) Dwelling Opportunity Map
 - d) Floor Space Ratio Map
 - e) Height of Building Map
 - f) Koala Habitat Map- refer to **Part 4**

Note no changes to the LEP text are proposed.

- 2) Adoption of area-based Development Control Plan provisions - refer to **Part 5** and **Appendix B**
- 3) Voluntary Planning Agreements to coordinate provision of infrastructure and management of environmental lands - refer to **Part 6** and **Appendix C**
- 4) Adoption of a Koala Plan of Management - refer to **Part 7** and **Appendix D**

In a separate process there will be preparation and adoption of a Developer Servicing Plan for sewage services for a catchment that includes part of the subject land.

The Minister for Planning (or his delegate) approves the changes to the LEP. The KPOM is approved by Council and the Secretary of the Department of Planning & Environment, in consultation with the Office of Environment and Heritage.

The other matters require final approval by Council.

Part 3 – Justification

A - Need for the planning proposal.

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

The subject land is identified as

- Proposed Future Urban Release Area in the Department of Planning's *Mid North Coast Regional Strategy 2006-31*, and
- Urban Investigation Area in Council's *Urban Growth Management Strategy 2010 – 2031*.

This planning proposal arises from the following Implementation Actions in the UGMS:

- Implementation Action 33 - stated 'Consider potential for bulky goods development at Lindfield Park Road [now Holland Close] and between the old and new Oxley Highway alignments'.
- Implementation Action 41 - included continued planning for infill area for residential development at South Lindfield, Port Macquarie.

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

Urban development of the subject land is prohibited under the current provisions of LEP 2011, and the most appropriate way to achieve the intended outcomes is to amend the LEP, in conjunction with the associated DCP, KPOM and VPA proposals.

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 planning proposal is consistent with the objectives and actions of the Mid North Coast Regional Strategy, particularly in relation to Settlement and Housing, and Economic Development and Employment Growth. The land is identified as partly Proposed Future Urban Release Area and partly Proposed Employment Lands - as shown of Figure 3.

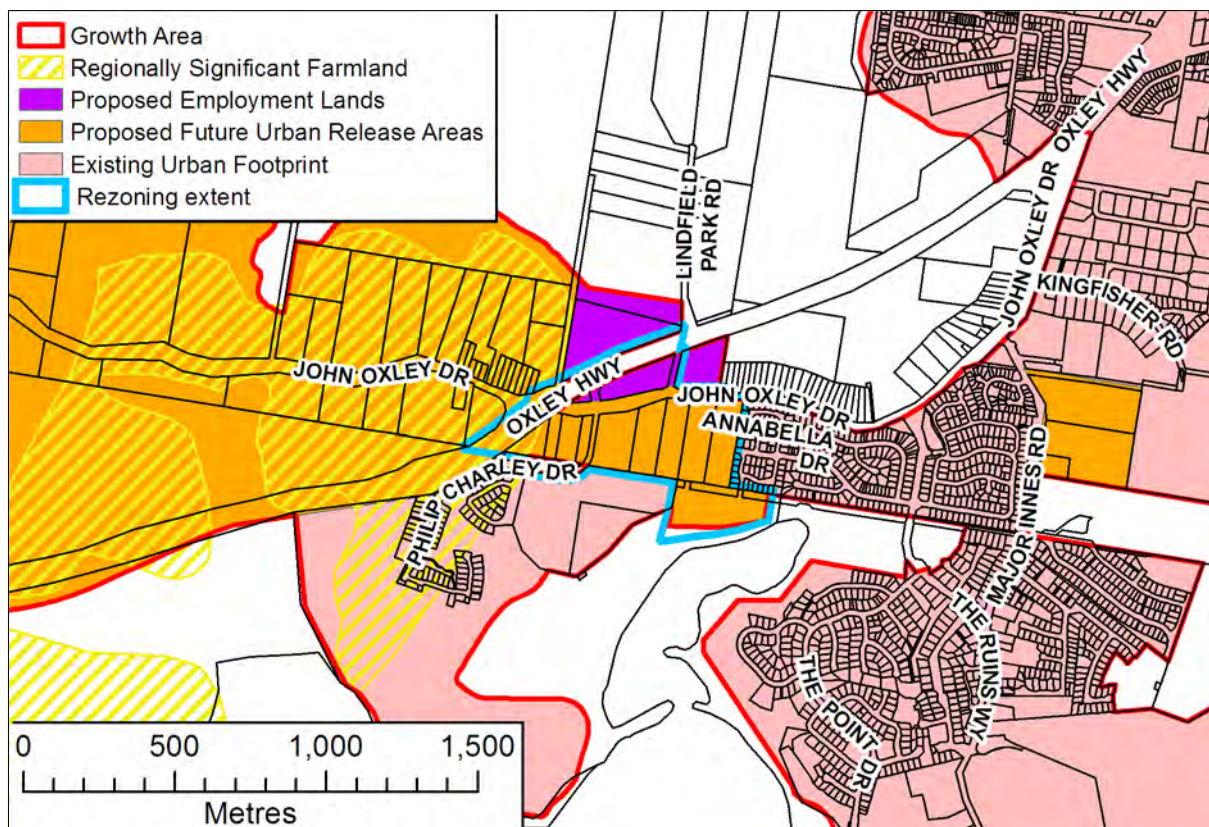


Figure 3 Mid North Coast Regional Strategy map extract

Note that some of what is shown as proposed in the Strategy has become existing - particularly for Thrumster, to the west of South Lindfield.

Under **Environment and Natural Resources** the Strategy includes the following actions:

Preparation of local environmental plans

- *Local environmental plans will zone regionally significant farmland to protect agricultural values.*

Farmland mapping

- *Regionally significant farmland will not be available for future urban or rural residential rezoning other than in the limited circumstances as permitted by the Mid North Coast Farmland Mapping Project Final Recommendations Report (2008).*

Regionally significant farmland has been identified in the Mid North Coast Farmland Mapping Project, as also shown in **Figure 3**.

There is no inconsistency when the above is read in conjunction with the *Mid North Coast Farmland Mapping Project Final Recommendations Report 2008*. The planning recommendations of the Report include:

Zoning

Regionally significant farmland cannot be considered for urban (residential, tourism, commercial and industrial) or rural residential zoning unless the land is:

- a) identified in a council rural residential strategy which has been agreed to by the Department of Planning as at the completion date of the Mid North Coast Regional Strategy, (or exhibited by that time and subsequently agreed to); or*
- b) part of an Growth Area under the 2008 Mid North Coast Regional Strategy; or*
- c) already zoned, subdivided or approved for an urban or rural residential use under an LEP. [p 17]*

Strategic planning

Regionally significant farmland cannot be identified for future rural residential use when councils prepare Local Growth Management Strategies under the Mid North Coast Regional Strategy.

Regionally significant farmland cannot be identified for future urban use in any review of Growth Area boundaries under the Mid North Coast Regional Strategy. The only exception to this would be where the land forms an otherwise logical extension to the major regional centres of Grafton, Coffs Harbour or Port Macquarie, and the land is needed for efficient urban development and there is no practicable alternative, or where the encroachment onto mapped farmland is minor. [p 18]

The Farmland Mapping Project map actually masks the area within South Lindfield, because priority is given to the designation as proposed urban release area. The small area mapped as regionally significant farmland does not preclude the urban rezoning of this land.

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

This planning proposal is consistent with the Towards 2030 Community Strategic Plan.

The planning proposal is aligned with the relevant Implementation Actions in the Port Macquarie-Hastings Urban Growth Management Strategy 2011-2031 [UGMS]:

7. Preparation of Koala Plans of Management for Urban Investigation areas and existing urban areas, as necessary to address the management of koala habitat and koala populations.
33. Consider potential for bulky goods development at Lindfield Park Rd [now Holland Close] and between the old and new Oxley Highway alignments.
41. Continue planning of infill areas for residential development:
West Lindfield - South, Port Macquarie [plus other sites not copied here]

Relevant details from the UGMS mapping are in **Figure 4**.

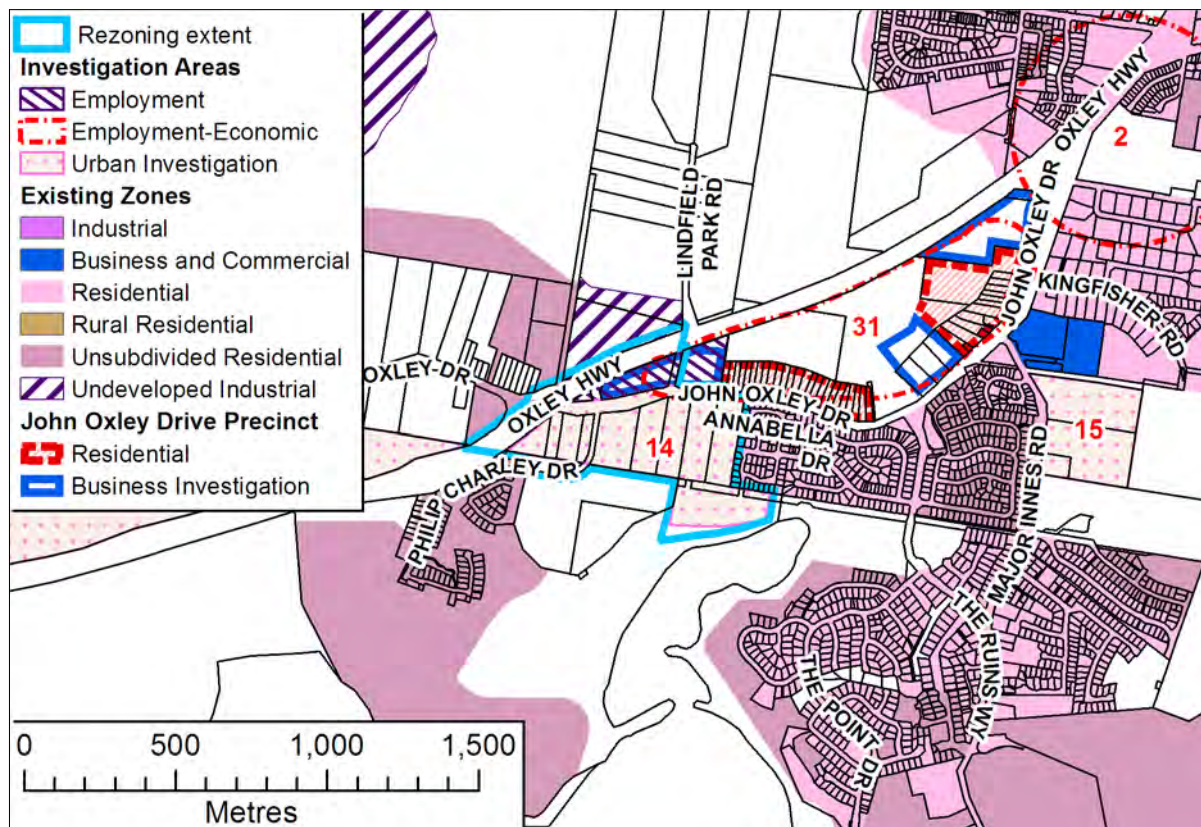


Figure 4 Urban Growth Management Strategy

Details of the reference numbers on the Map are;

Map Ref	UGMS Implementation Action
2	15. Establish a medical services cluster, centred on the Port Macquarie Base Hospital.
14	41. Continue planning of infill areas for residential development: • West Lindfield - South, Port Macquarie
15	41. Continue planning of infill areas for residential development: • Major Innes Drive, Port Macquarie
31	33. Consider potential for bulky goods development at Lindfield Park Rd and between the old and new Oxley Highway alignments.

The South Lindfield urban release area is part of the UGMS, within Implementation Action 41.

The John Oxley Drive Precinct Structure Plan applies to land north of John Oxley Drive and south of the Oxley Highway. It was adopted by Council and addressed Implementation Action 33 of the UGMS. By letter dated 1 November 2012 the Department of Planning and Infrastructure (as then known) advised that the Structure Plan has been approved as a component of Council's Urban Growth Management Strategy.

The Structure Plan identified the land on the northern side of John Oxley Drive and within this release area for 'Business Investigation' - for bulky goods or other appropriate commercial development. This could include light industrial - the primary considerations are minimising adverse visual impacts on the adjoining roads and proposed residential area, and other impacts (eg noise) for the proposed residential areas.

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

A detailed assessment of the consistency of this planning proposal with the State Environmental Planning Policies [SEPPs] applying within the Port Macquarie-Hastings local government area is in **Appendix F**.

Of particular relevance are:

(a) SEPP No 44 - Koala Habitat Protection - consistent

To enable better strategic planning for future development of this area, and to avoid the need for individual KPoMs with future development applications, a draft KPoM has been prepared, and has been used to guide preparation of the draft LEP and DCP provisions.

More detailed consideration of the draft KPoM is contained in **Part 7**, and **Appendix D** contains a copy of the draft KPoM.

(b) SEPP No 55 - Remediation of Land - consistent

The property on the southeastern corner of John Oxley Drive and Philip Charley Drive has previously been used as an orchid nursery, with potential contamination from chemicals used. A geotechnical assessment was done, with abnormal levels of chromium detected. Further assessment determined that the hazardous hexavalent form of chromium was below detection.

In addition, an asbestos cement pipe was encountered, and there is the potential for asbestos-containing materials in the existing dwellings. One of the dwellings has since been removed.

There is a general presumption that there is asbestos in the older dwellings, and there is no need to highlight this within the release area.

(c) SEPP (Exempt and Complying Development Codes) 2008 - consistent

Some of the release area is identified as 'Subject to acoustic controls' or 'Koala habitat area'. As provided for by this 'Codes SEPP', this designation precludes complying development under the General Housing Code and Rural Housing Code for the relevant land.

It is proposed to extend the area identified as 'Koala habitat area' - refer to the proposed map in **Part 4**.

A consequence will be that no complying development under the General Housing Code will be permitted within the release area.

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

A detailed assessment of the consistency of this planning proposal with the section 117 Ministerial Directions applying within the Port Macquarie-Hastings local government area is in **Appendix G**.

There are some minor inconsistencies, which require the agreement of the relevant authorised officer of the Department of Planning & Environment. These are:

(a) 1.2 Rural Zones

The objective of this direction is to protect the agricultural production value of rural land. The direction states that a planning proposal must:

- (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.
- (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).

A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or his delegate) that the provisions of the planning proposal that are inconsistent are: ...

- (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, ...

This land has been identified in the *Mid North Coast Regional Strategy 2006-31* for partly Proposed Future Urban Release Area and partly Proposed Employment Lands, as described earlier in this Part.

(b) 1.5 Rural Lands

The objectives of this direction 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.

This direction applies when:

- (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or
- (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or his delegate) that the provisions of the planning proposal that are inconsistent are:

- (a) justified by a strategy which:
 - i. gives consideration to the objectives of this direction,
 - ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites, and

- iii. is approved by the Director-General of the Department of Planning and is in force.

This land has been identified in the *Mid North Coast Regional Strategy 2006-31* for partly Proposed Future Urban Release Area and partly Proposed Employment Lands, as described earlier in this Part.

(c) 2.1 Environment Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas. The direction requires:

- (4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas.
- (5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.

The direction requires that this planning proposal include provisions that facilitate the protection and conservation of the areas of endangered ecological communities and the core koala habitat.

A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or his delegate) that the provisions of the planning proposal that are inconsistent are: ...

- (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction,

As detailed elsewhere, particularly in **Part 7**, it is proposed that development of some environmentally sensitive areas be allowed when there is an overall benefit from offset planting - such as embellishing another sensitive area (which provides greater overall benefit) or providing connectivity.

(d) 3.5 Development Near Licensed Aerodromes

Most of the requirements of the direction are satisfied.

One requirement of the direction is consultation with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome - Council is the operator of the aerodrome, so consultation with the Commonwealth Department is required.

This consultation will occur following issue of the Gateway determination - until then technically there is an inconsistency.

(e) 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.

More details, including flood mapping, is provided in Appendix G.

Within the locality there is backwater flooding of the Hastings River floodplain which can reach John Oxley Drive. This flood mapping has not been updated for the filling associated with the current Oxley Highway alignment, and the extent to which backwater flooding would come under the Oxley Highway to the southern side has not been modelled, though it should be lessened. However, closer scrutiny will be given to this in any development proposal.

On the southern side the Vilro property is marginally affected by the flood prone land, though on likely development concepts the affected portion would have minimal development.

There are minor variations to the Direction in both cases. A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Secretary (or an officer of the Department nominated by the Secretary) that: ...

- (b) the provisions of the planning proposal that are inconsistent are of minor significance.

(f) 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.

This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. An extract of this mapping is provided in **Appendix G**.

In summary, there are three technical inconsistencies with the requirements of this Direction, relating to subclauses (4) to (6) of the Direction:

Subclause (4) requires consultation with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination and prior to undertaking community consultation. This will be satisfied, but has not been done at this stage.

Subclause (5) requires that the planning control introduce controls that avoid planning inappropriate developments in hazardous areas. The proposal relies on the current controls and assessment process, and technically is inconsistent by not introducing further controls.

Depending on the interpretation of subclause (6), it is required that the planning proposal contain development application details (ie asset protection zone, access road links, water supply, etc). If this is the case, then this is a further inconsistency.

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?

The *Threatened Species Conservation Act 1995* contains measures to identify and protect critical habitat, threatened species, populations or ecological communities, and their habitats, and to identify and mitigate key threatening processes. The most relevant category is endangered ecological communities [EEC].

Key threatening processes include:

- Clearing of native vegetation
- Invasion and establishment of exotic vines and scramblers
- Invasion and establishment of the cane toad (*Bufo marinus*)
- Invasion, establishment and spread of *Lantana camara*
- Invasion of native plant communities by exotic perennial grasses
- Loss and degradation of native plant and animal habitat by invasion of escaped garden plants, including aquatic plants
- Loss of hollow-bearing trees
- Predation and hybridisation of feral dogs
- Predation by the feral cat
- Removal of dead wood and dead trees.

In addition, the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* [EPBC Act], can require approval from the Federal Environment Minister if an action could have a significant impact on a matter of national environmental significance.

Under the Act, koalas (being the combined populations of Queensland, New South Wales and the Australian Capital Territory) are listed as a mammal that is vulnerable. The Act also lists key threatening processes. Actions by Council or developers that may have a significant impact on the local koala community could require approval under the EPBC Act.

Council has commissioned two environmental studies for the release area:

(a) Ecological Assessment West Lindfield

This assessment was prepared by Biolink Ecological Consultants, and finalised in December 2009, ie prior to completion of the Oxley Highway realignment. It identified four remnant vegetation communities on the site, two of which conformed to the EEC descriptors of *Swamp Oak Floodplain Forest on Coastal Floodplains* and *Swamp Sclerophyll Forest on Coastal Floodplains* - refer to **Figure 5**.

Since the survey work a remnant of Swamp Oak Open Forest north of John Oxley Drive has been reduced in size due to roadworks to a few trees in the western end of the Busways' property. It is isolated, and has limited capacity to contribute to regional ecosystems. It does have some landscape screening value adjacent to the Oxley Highway.

There is Broad-leaved Paperbark/Swamp Mahogany along the southern boundary of the release area within the Vilro holding. This strip of vegetation has been identified for retention as a buffer between urban development within the release area and a proposed golf course fairway to the south.

While 13 records of three threatened flora species have been recorded within a 5 km radius of the site, none were found within the release area.

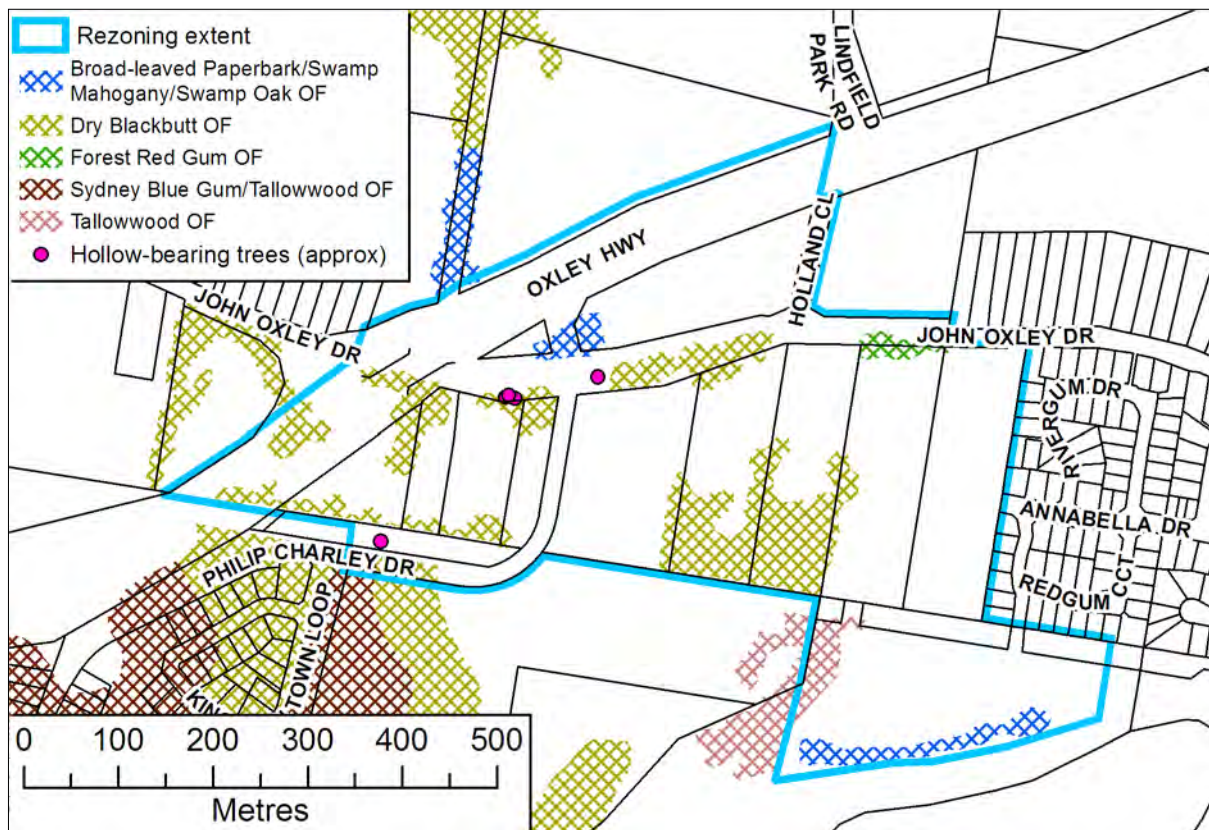


Figure 5 Vegetation communities and hollow-bearing tree locations, Biolink 2009

The western portion of the Vilro land contains a Tallowwood Open Forest, though this has been degraded by the construction of a sewer rising main through it.

The other vegetation communities are:

- Dry Blackbutt Open Forest (a tall to very tall open forest to woodland dominated by Blackbutt *E. pilularis* growing in association with Tallowwood *E. microcorys*, and Pink Bloodwood *C. intermedia*), including a large area in the middle of the release area
- Forest Red Gum Open Forest (Forest Red Gum *E. tereticornis* growing with Slash Pine *Pinus elliotii* and Camphor Laurel *Cinnamomum camphora*)- a small strip, partly within the southern verge of John Oxley Drive.

The assessment identified hollow-bearing trees, which are important for many arboreal species, and identified that the majority of the release area is core or potential koala habitat. The locations on **Figure 5** are indicative.

The Office of Environment and Heritage Atlas of NSW Wildlife listed 554 records of 30 threatened fauna species within a 5 km radius of the site, with three within or immediately adjacent – Green and Golden Bell Frog *Litoria aurea*, Swift Parrot *Lathamus discolor* and Koala *Phascolarctos cinereus*.

The key measures recommended to assist the persistence of the biodiversity values of the site include:

- (a) retention of koala food trees and other planning and design provisions in keeping with those already proposed for koala management in the Thrumster urban release planning process.
- (b) retention and restoration of EEC vegetation in the south to improve the viability of this remnant, to increase its availability for other threatened species known from the area, and to providing a buffer from development for the adjacent Lake Innes Nature Reserve.
- (c) further investigation is also recommended of the potential presence of the Green and Golden Bell Frog on the site.

Further work on protection of koalas is briefly described below, with further details in **Part 7** and **Appendix D**.

In lieu of a priority of restoration of the EEC vegetation along the south-eastern boundary, it is proposed to give priority to restoration and augmentation of the vegetation along the western edge of the Vilro property, to provide connectivity with the Dry Blackbutt Open Forest in the middle of the release area.

Council has commissioned a targeted survey for the endangered Green and Golden Bell Frog in and near the release area. The results of that survey should be available by May 2016.

(b) South Lindfield KPOM Stage 2: DRAFT Koala Plan of Management

Naturecall Environmental consultants were engaged to prepare a Koala Plan of Management for the release area. Following initial data collection a draft KPOM was prepared, and is discussed in more detail in **Part 7** and **Appendix D**.

The relevant conclusions from Part 7 are that it is preferable to separate the urban development land from the koala habitat. It is proposed to allow removal of some scattered or isolated koala food trees where offset planting embellishes existing koala habitat or corridors.

The focus is on:

- The large stand of vegetation in the middle of the release area, on parts of Nos 165, 171 and 175 John Oxley Drive
- Connecting corridors on the western and southern boundaries of the Vilro land
- Retention of the favoured koala food tree on the north-eastern corner of No 171 John Oxley Drive, along with a safe corridor link back to the main vegetation stand.

For the cluster of four smaller lots west of Philip Charley Drive, it is more difficult to identify a broad solution which consolidates habitat outside of potential future residential development. More intense development of these lots will require a detailed development proposal which meets the objectives set out in Part 5. It is suggested that such a proposal could be assessed and processed as a combined rezoning and development application under Division 4B of Part 3 of the EP&A Act.

In the interim, a large minimum lot size has been retained for the western lots, to limit potential conflict between urban development and the koala population.

In conclusion:

- a small remnant of Swamp Oak Open Forest north of John Oxley Drive is considered to not have ecological values. However, for visual screening purposes, it is proposed to be zoned E2 Environmental Conservation.
- The current strip of Broad-leaved Paperbark/Swamp Mahogany along the southern boundary of the release area within the Vilro holding will be retained, but the focus for embellishment will be done in the Tallowood Open Forest on the western boundary.
- Only limited development will be permitted in the western precinct without a detailed development concept as described in Part 5.
- The hollow-bearing trees will be conserved.

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

This has been addressed under the preceding heading.

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

Current development is largely low density, quasi old rural residential character. An old motel is situated on No 209 John Oxley Drive. There is limited new development, with the anticipation of an urban rezoning prior to investment in redevelopment. Five properties (including the motel) are owner-occupied, with tenants in further three dwellings. The Busways' land is vacant, with an anticipated IN2 Light Industrial zone. The Vilro land is vacant, with anticipated urban residential development.

Urban development of the release area will bring increased economic activity.

The only potential adverse impact may be whether the current tenants can afford alternate accommodation.

D - State and Commonwealth interests.

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

(a) Roads

The release area adjoins the Oxley Highway, with left-turn access for west-bound traffic. John Oxley Drive is a sub-arterial road, providing two-way access to Port Macquarie and the Pacific Highway. There will be no direct access onto John Oxley Drive for new development.

Direct road access will be available from Holland Close and a westward extension of Annabella Drive and via Philip Charley Drive. The key new roads are shown on **Figure 6**.

It had been assumed that Annabella Drive would be extended to an intersection at Philip Charley Drive, but this has been ruled out as the gradient and sight distance make it difficult to construct a safe intersection. In lieu it will be extended to a future four-way roundabout intersection with John Oxley Drive and Holland Close. A preliminary estimate for the cost of the roundabout is \$1.4m. At present funding has been identified for about half of that cost.

The extension of Annabella Drive will serve five properties and coordination of timing and costs can be managed using Voluntary Planning Agreements. The completion of the final link to John Oxley Drive will be dependent on the future

development of No 175 John Oxley Drive, as the owner has declined to participate in a Voluntary Planning Agreement.

While development of the Vilro property will primarily use Blackwood Street for access, it is anticipated that an alternative bushfire emergency escape route may be required - it is planned for an alternate route be available across the southern portion of No 165 John Oxley Drive, through to the extension of Annabella Drive. There is already a right of carriageway across the Vilro land from the subdivision to the southwest.

The only direct access to Philip Charley Drive for future development will be for the property directly east of that road.

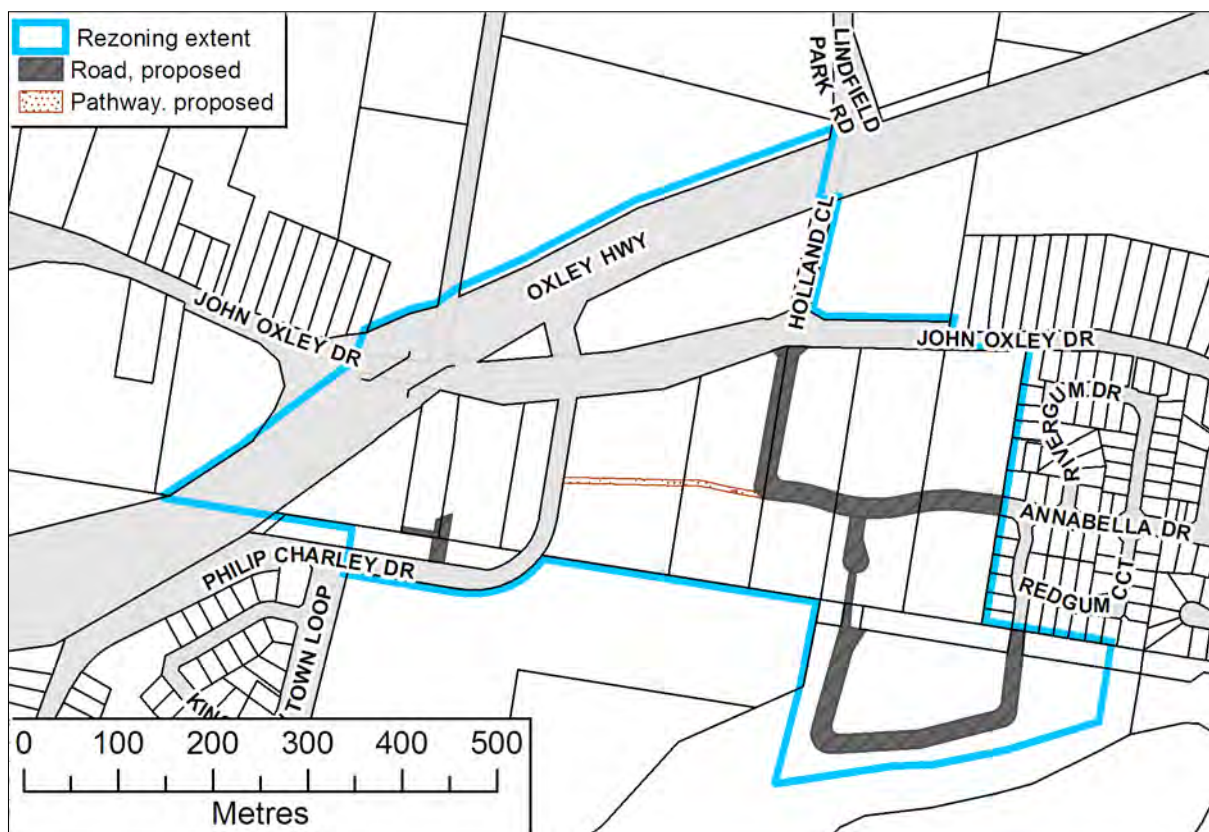


Figure 6 Key proposed roads

Access for future development west of Philip Charley Drive will be restricted to coming from the south - for road safety, there will be no additional direct access off John Oxley Drive or the eastern portion of Philip Charley Drive. This access will involve extra costs to protect the trunk water mains that are located between the southern boundary of those lots and Philip Charley Drive.

(b) Stormwater management

The goals of stormwater management in urban development are:

- managing flow rates so that they do not increase in intensity or volume, which could cause flooding for downstream properties or cause erosion,
- managing water quality to minimise contaminants, sediment and rubbish reaching waterways.

Detention basins are used to achieve either or both goals, depending on the circumstances.

The release area straddles a low ridge, creating northern and southern stormwater catchments.

Storm Consulting Pty Ltd were engaged to evaluate various stormwater management plan options for the release area, initially including the land on the eastern side of Holland Close, and then without that land. Based on landowner intentions, the revised stormwater management plan is shown in **Figure 7** and described below.

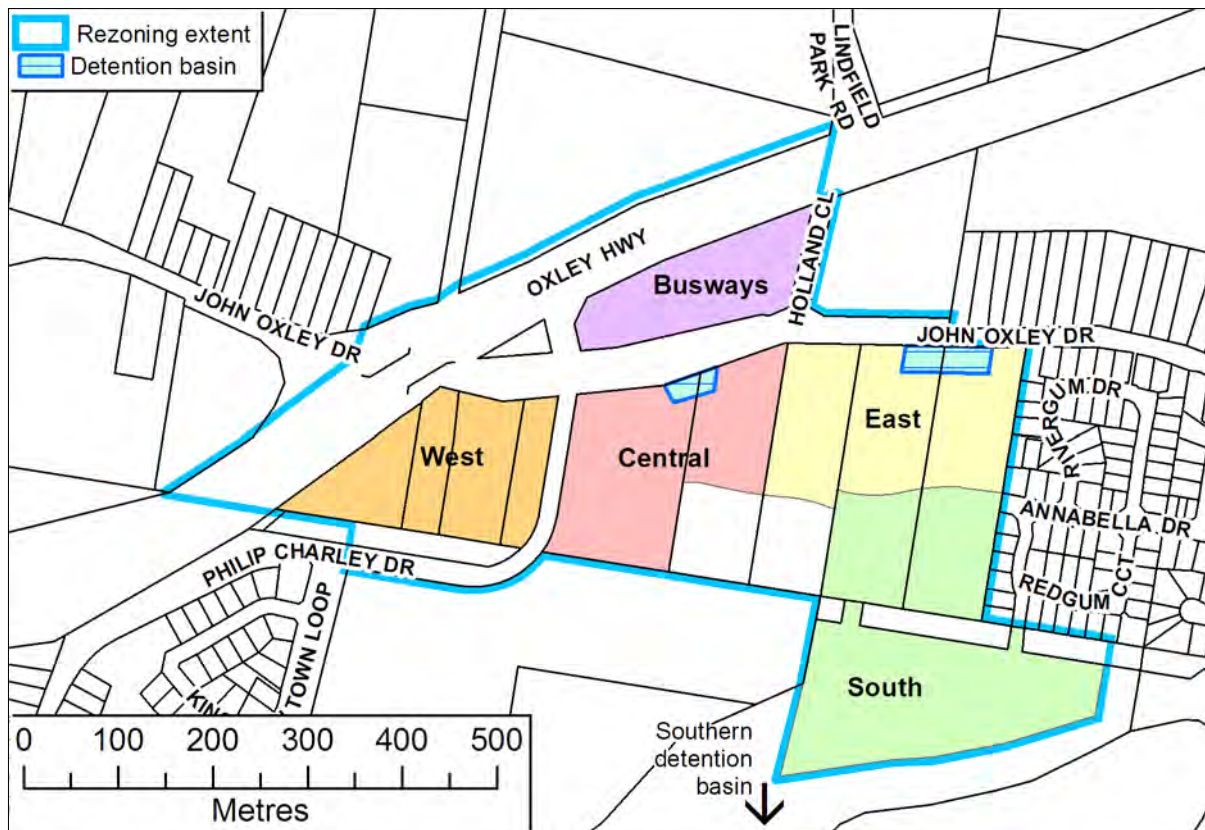


Figure 7 Stormwater strategy

The southern catchment drains onto the Vilro land, and the owners of the Vilro land propose to construct a detention and water quality basin within another portion of their land holding. This will require agreements with Council in relation to long-term management and access, and with the owners of the other land draining to that basin.

The northern catchment drains to a culvert along the southern side of the Oxley Highway. The NSW Roads and Maritime Services advise that it was built to handle existing (ie pre-development) stormwater flows. Without upgrading, the post-development discharge cannot exceed the current stormwater flows for the same intensity rainfall events.

Stormwater management for the northern catchment is complex, and ultimately is managed with 4 subcatchments, as shown on **Figure 7**. Details are:

- Busways: wish to manage and reuse their own stormwater. Will not involve other parties.

- Eastern subcatchment: a detention basin across two lots will serve three properties. This will be coordinated using Voluntary Planning Agreements.
- Central subcatchment: it is proposed that a detention basin straddle the common boundary of the two lots, but can be built in stages, based on timing of development. This enables development notwithstanding that the owner of No 175 John Oxley Drive has declined to participate in a Voluntary Planning Agreement.
- Western subcatchment: problematic without a detailed concept prepared in conjunction with a development proposal - refer to **Part 5**. In the current planning proposal, new development is limited due to a large minimum lot size and to a dwelling on the western lot - it is large enough to manage on-site stormwater disposal.

(c) Water supply

There is capacity and water mains to service future development within the release area.

(d) Sewerage services

The release area straddles a low ridge, creating northern and southern sewerage catchments. **Figure 8** illustrates how sewerage services can be provided.

The southern catchment is served by an existing sewer pump station [SPS] located at the southern end of the adjoining crematorium. Voluntary Planning Agreements will coordinate the timing and cost of construction of gravity mains across the Vilro land from the other two properties within this catchment. This SPS ultimately connects to Council's Koala Street sewage treatment plant [STP].

The northern catchment is part of the catchment for a future SPS serving the eastern section of the Thrumster urban growth area. This SPS will be on the northern side of the Oxley Highway, beside Lindfield Park Road. It will connect to another future SPS to the west, which connects to the existing major Thrumster Street SPS, which then connects to the Fernbank Creek STP. Note that at present sewage is pumped from there back to the Koala Street STP - this arrangement is temporary, and is subject to the total load on the Koala Street STP reaching sufficient load to make the Fernbank Creek STP viable,.

So the ultimate sewerage strategy for the northern catchment is unlikely to be achieved in the near future. Some interim capacity is available at the Koala Street STP, with the appropriate option being connecting to the gravity main commencing behind No 158 John Oxley Drive and draining to the east. Any interim solution should also be compatible with the ultimate gravity main that is to connect to an existing pipe at the northern end of Holland Close, and extends under the Oxley Highway (in anticipation of connecting to the future Lindfield Park Road SPS).

One option would be to drain to the future SPS site, and build a first stage, and then pump back to a connection to that existing gravity main. This is not viable given the cost of building the SPS first stage. The alternative is to find an alignment that can successfully drain the northern catchment to that main. That is feasible, but subject to evaluation of various alignments. It may be that the Busways land may require an on-site pump, and that the western precinct may not be able to connect to an interim solution, though only limited development within this precinct is expected in the short term.

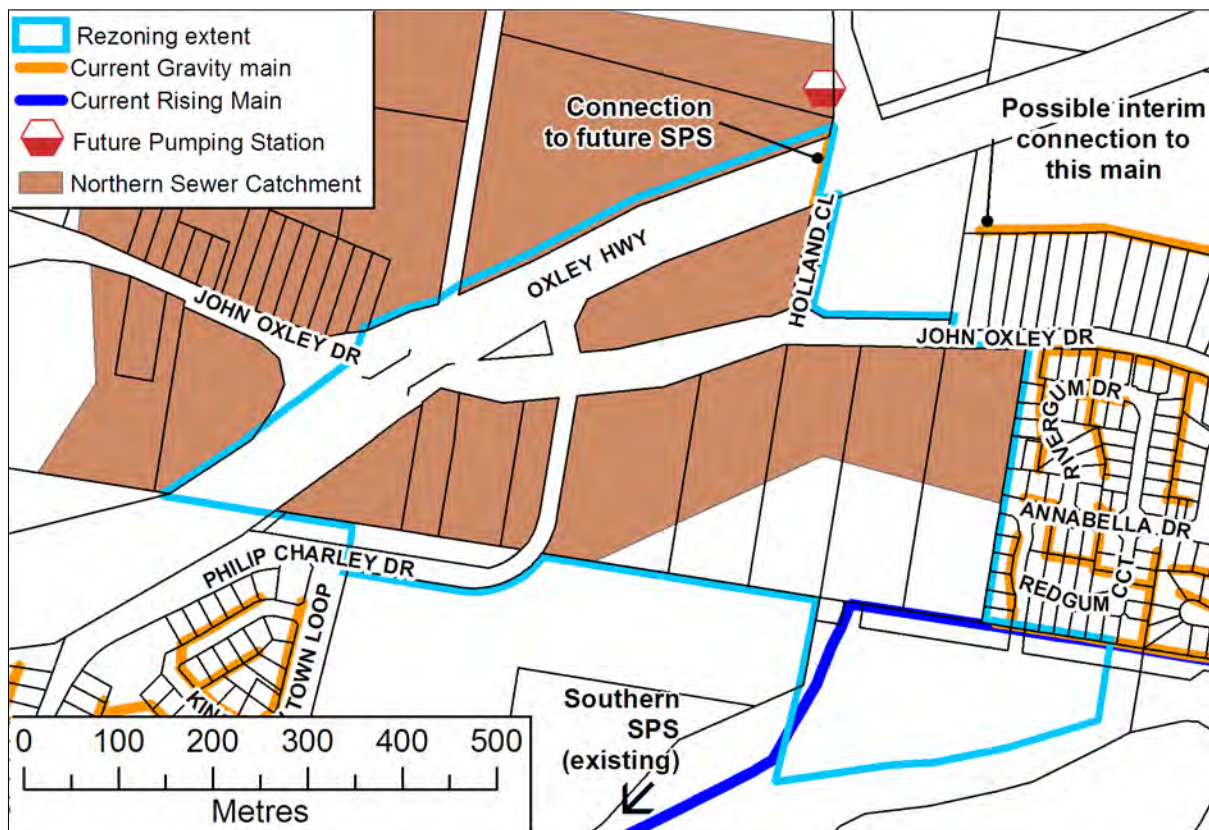


Figure 8 Sewerage services

This interim solution is also subject to a capacity cap of 134 et [equivalent tenements]. It is unlikely that the development within the northern catchment would exceed this.

(e) Electricity and telecommunications

There is adequate local capacity to provide electricity services to the release area.

There is adequate local capacity to provide telecommunication services to the release area.

In summary, public infrastructure is generally adequate, and planning agreements are proposed to provide a co-ordinated solution to infrastructure issues. The interim solution for sewerage services for the northern catchment will require detailed design to make it work. Further investigation will be required for identifying adequate funding for the proposed roundabout at John Oxley Drive, Annabella Drive and Holland Close.

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

Following receipt of the Gateway determination, it is proposed to consult with:

- Civil Aviation Authority of the Commonwealth
- Environmental Protection Authority
- Essential Energy
- Office of Environment and Heritage
- Roads and Maritime Services
- Rural Fire Service

Copies of their responses will be included in **Appendix E**, and their views summarised and addressed in the relevant section above.

Part 4 – Mapping

A - Affected land

Refer to **Error! Reference source not found.** and **Error! Reference source not found.** in ckgground (before Part 1).

B - Comparison of before and after

The map series in LEP 2011 proposed to be amended are listed below, with map extracts showing the current mapping and proposed changes on the following pages.

Note that these are merely map extracts, provided at a scale of 1:8000 (on A4), which are easier to read than the official map scale of 1:20,000.

(a) Land Zoning Map

Changes the zoning of the land, which, in conjunction with the Land Use Table in the LEP text (after Part 2), determines the permissible land uses. There are many ancillary provisions in the LEP and in SEPPs that are subject to the zone applying to the land.

(b) Lot Size Map

Specifies the minimum lot size for land subdivision, and, for Zones E3 Environmental Management and E4 Environmental Living, the minimum lot size for the erection of dwelling houses and dual occupancies (which have to be attached in those zones).

(c) Dwelling Opportunity Map

Clause 4.2A of the LEP text specifies the criteria for the erection of dwelling houses and dual occupancies (attached) within selected zones, including Zone Nos E3 and E4. Generally this is the minimum lot size shown on the Lot Size Map, but lesser sizes may be acceptable based on other criteria, including if the lot is identified on the Dwelling Opportunity Map.

No 12 Philip Charley Drive is shown on the map. It has an area of 0.54 Ha. It is proposed to reduce the minimum lot size from 40 Ha to 0.80 Ha, which still is greater than the actual size, and as the proposed zones are part E3 and part E4, the property will still be undersize. As there is already a dwelling house upon the lot, it does not cause any problems to remove the property from the Dwelling Opportunity Map.

(d) Floor Space Ratio Map

Clauses 4.4 and 4.5 of the LEP text apply restrictions on the floor space of buildings on land subject to restrictions on this map. While there is no such restriction for land with no maximum shown on the map, such as the land proposed to be zoned E3 or E4, in practice the site characteristics, including lot size, are such that the likely floor space ratio is far less than what is applied to land zoned residential.

(e) Height of Buildings Map

Clause 4.4 of the LEP text restricts the height of buildings to that specified on this map. Refer to building height in the LEP Dictionary for how this is measured - broadly height is measured from the existing ground level to the top of the roof.

(f) Koala Habitat Map

Land identified on this map is subject to clause 7.5 of the LEP text. This requires that the consent authority is to be satisfied that any development application for that land is consistent with the relevant provisions of and adopted KPoM applying to that land.

Identification on this map also excludes some types of complying development under the Codes SEPP (also known as SEPP (Exempt and Complying Development Codes) 2008).

No change is proposed to the following map series:

- Acid Sulfate Soils Map
- Acoustic Controls Map
- Additional Permitted Uses Map
- Coastal Erosion Map
- Flood Planning Map
- Heritage Map
- Land Application Map
- Land Reservation Acquisition Map
- Significant Urban Areas Map
- Urban Release Area Map
- Visually Sensitive Land Map.

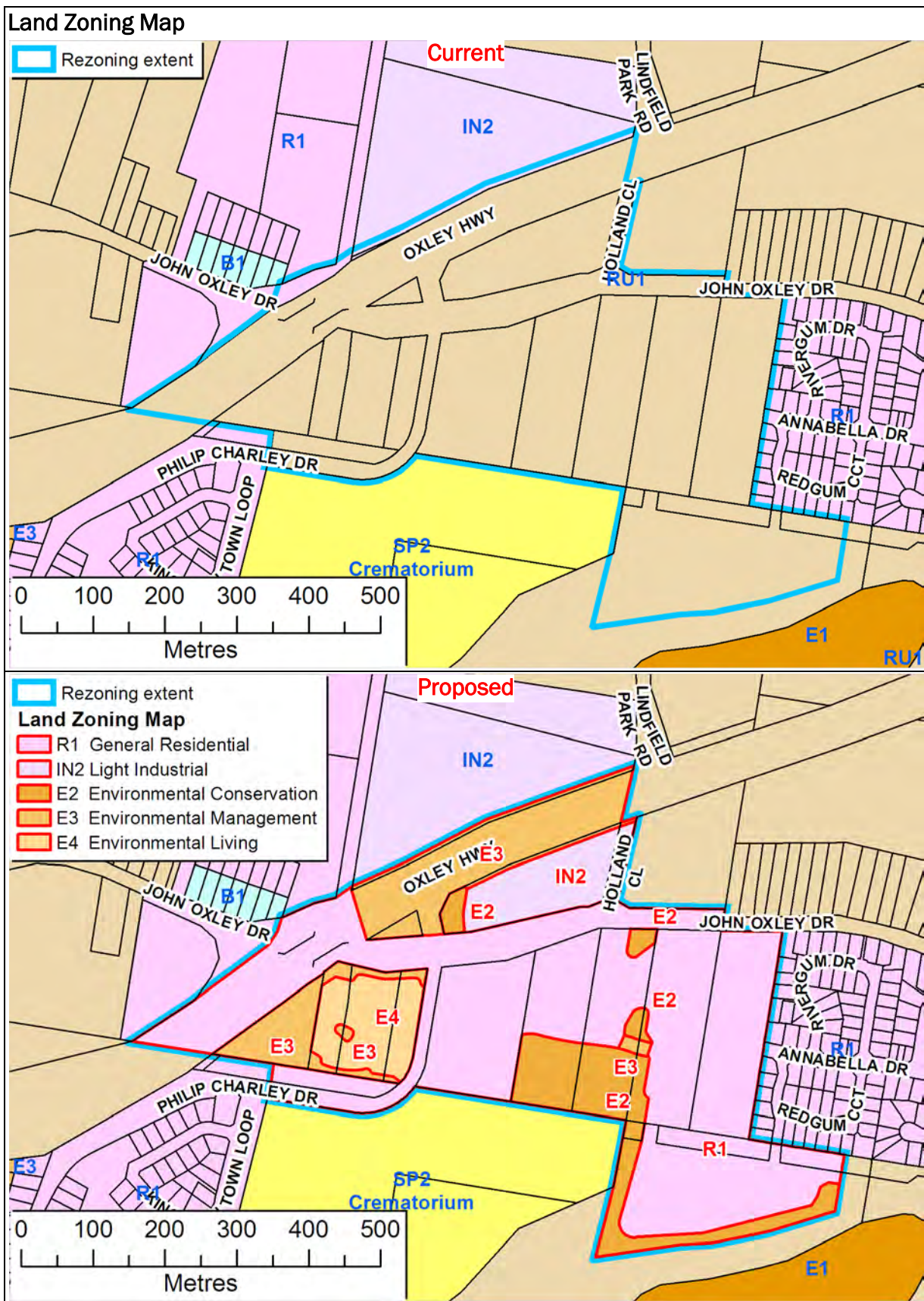


Figure 9 Land Zoning Map - current and proposed

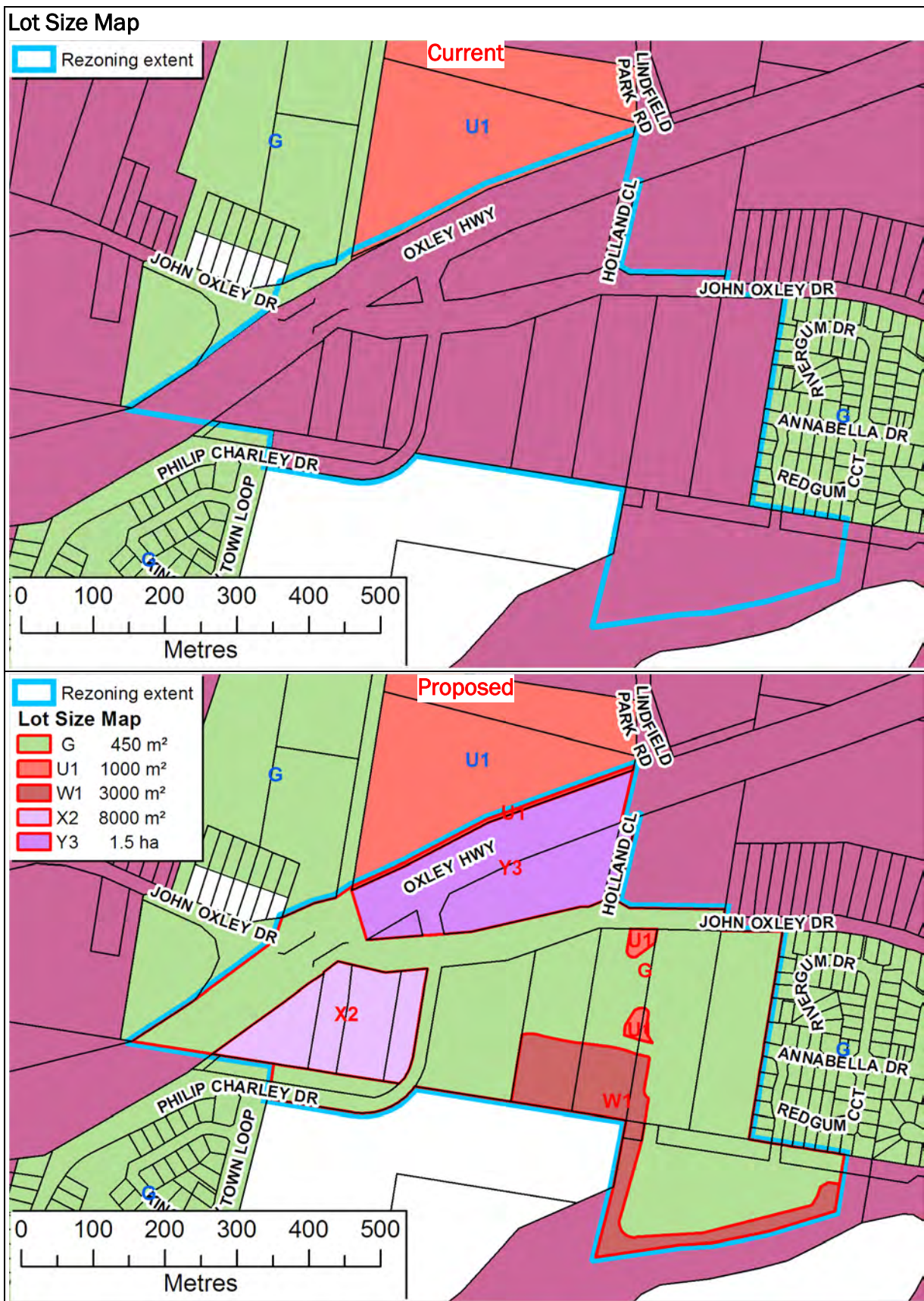


Figure 10 Lot Size Map - current and proposed

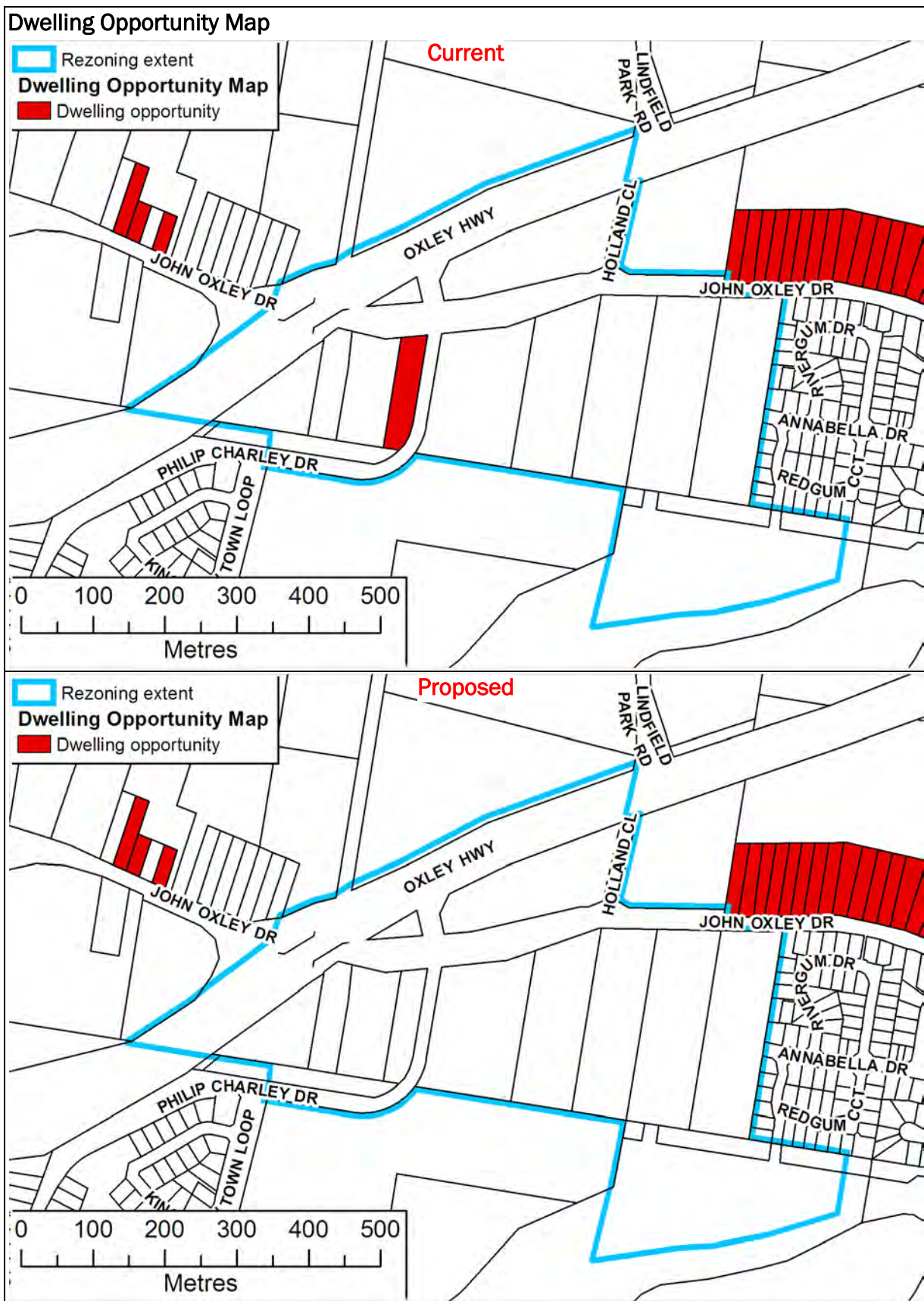


Figure 11 Dwelling Opportunity Map - current and proposed

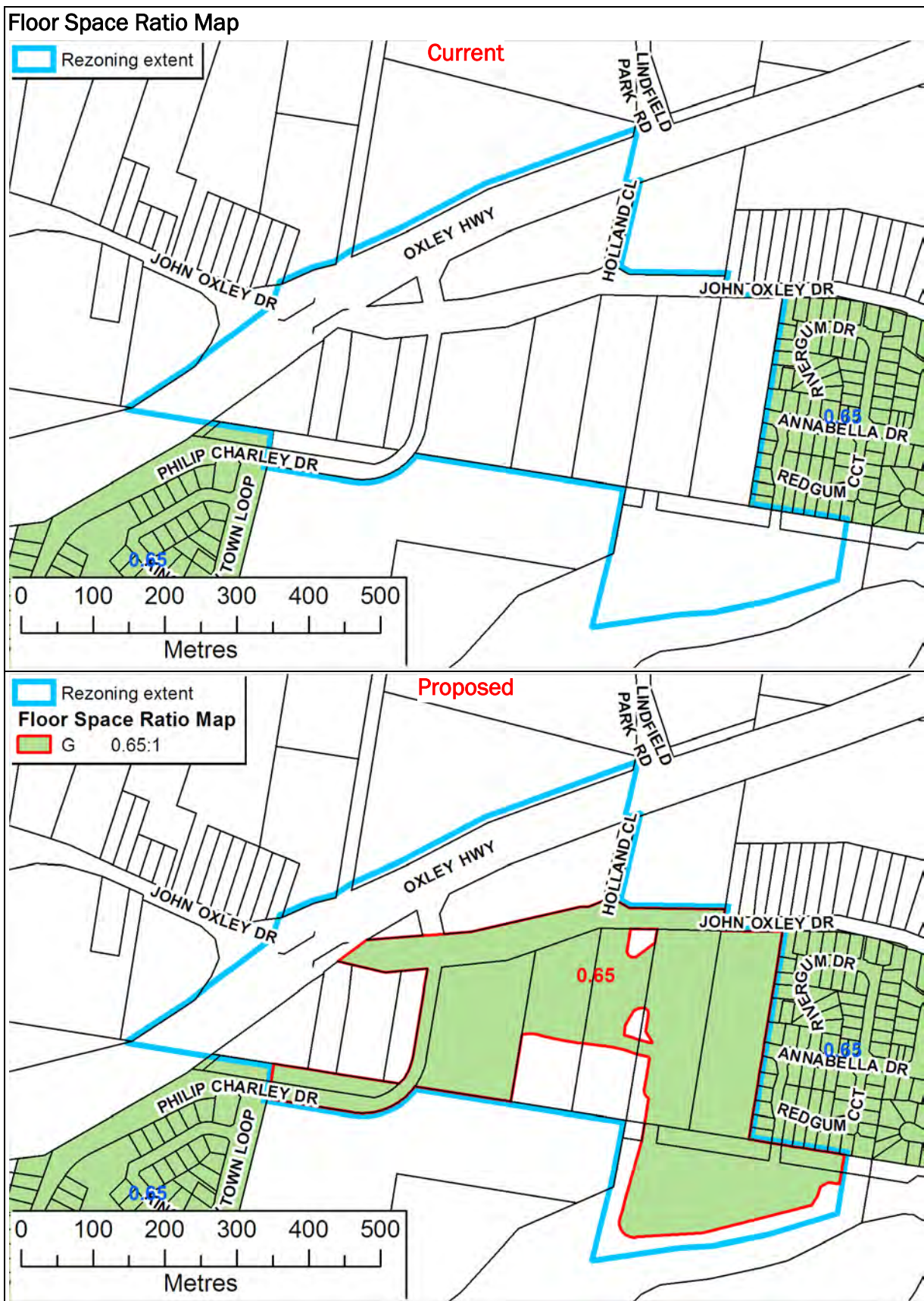


Figure 12 Floor Space Ratio Map - current and proposed

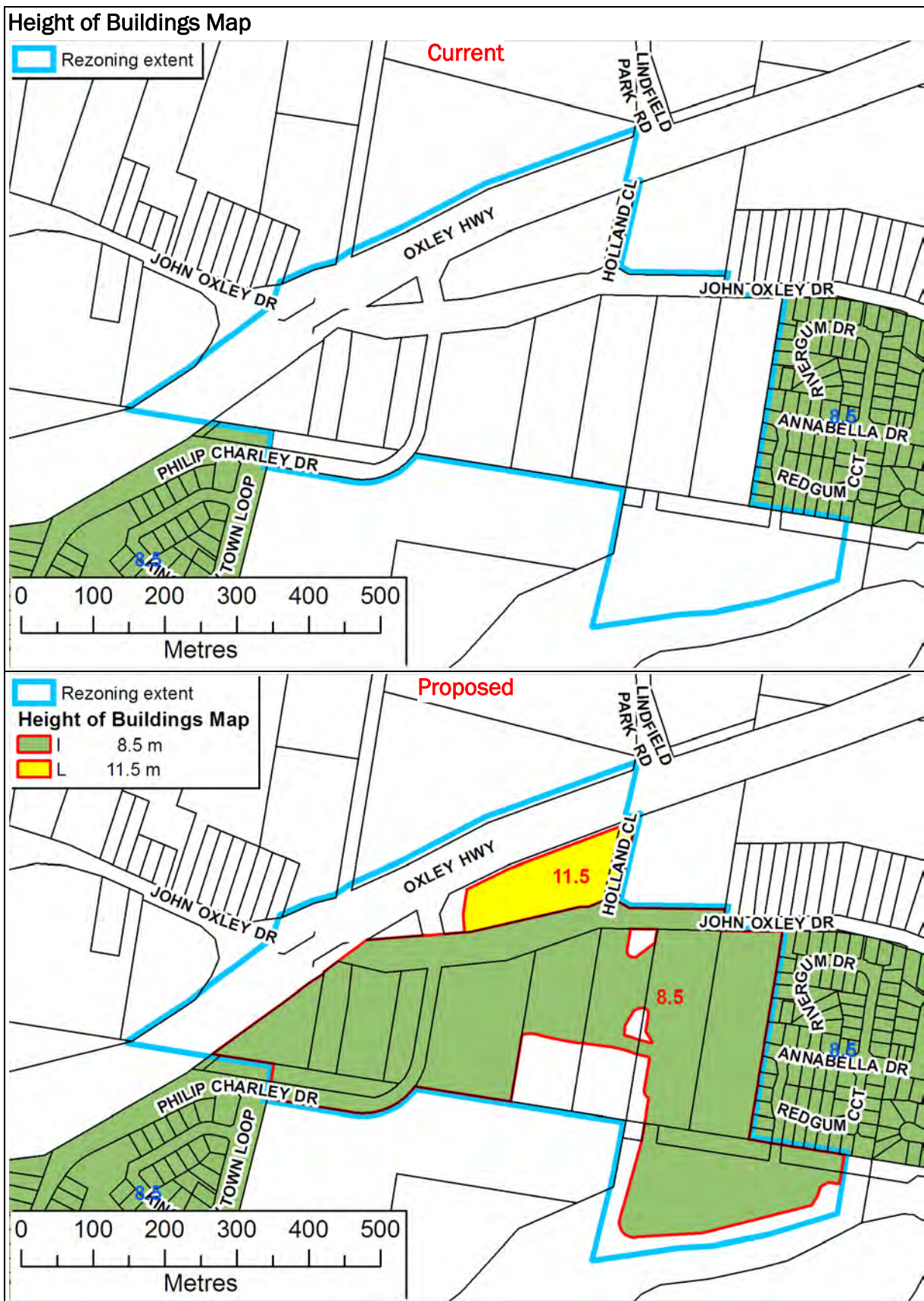


Figure 13 Height of Buildings Map - current and proposed

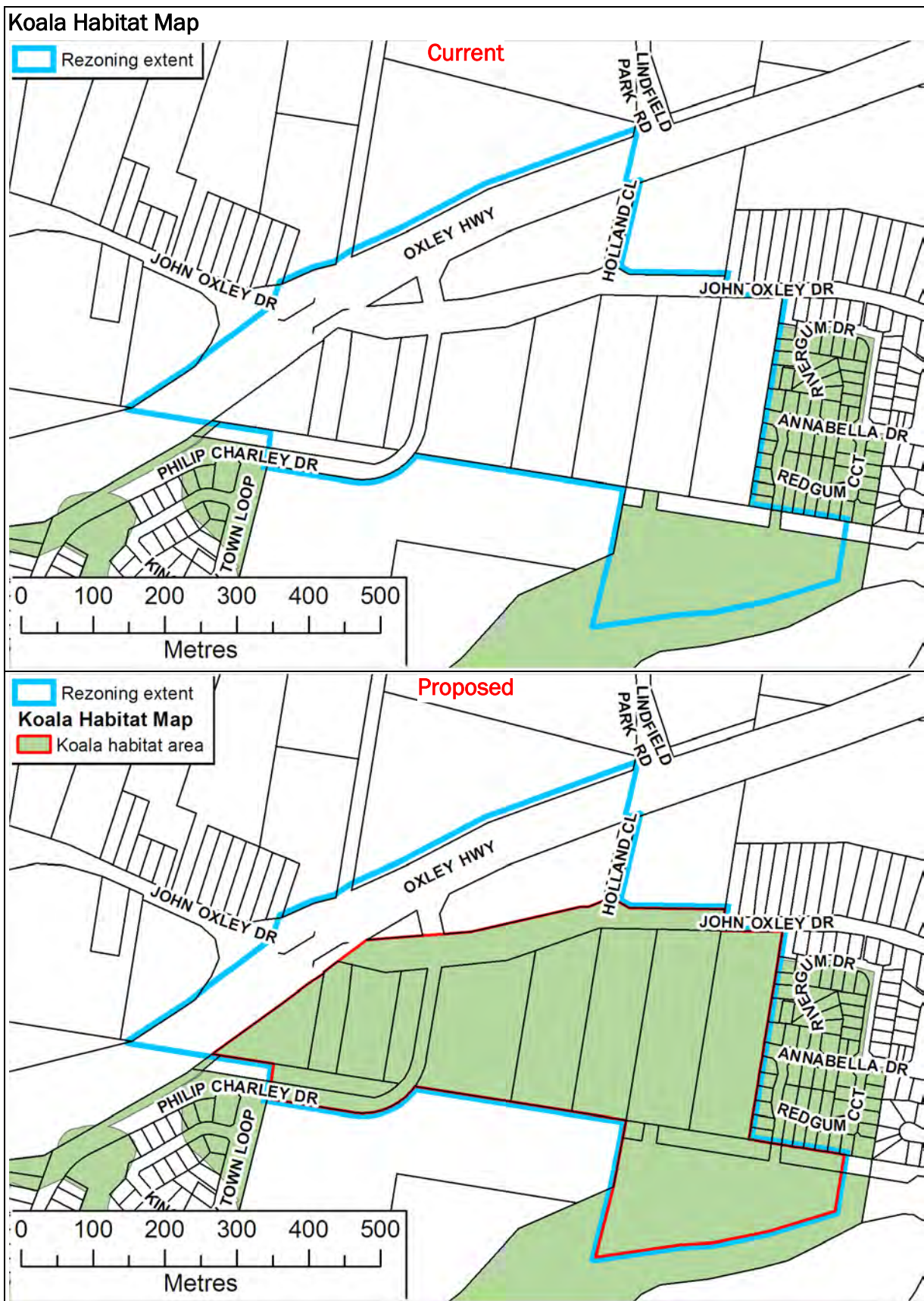


Figure 14 Koala Habitat Map - current and proposed

C - Draft LEP maps

The current legal LEP map sheets are found on the NSW Legislation website.

The Map Index for LEP 2011 is located on

www.legislation.nsw.gov.au/mapindex?type=epi&year=2011&no=84

For this Planning Proposal, the relevant map sheet grid reference is 013D, with a scale of 1:20,000 printed on A3.

The map sheets to be revoked, and the map sheets proposed to be adopted are listed in **Appendix H**. The proposed map sheets have not been prepared at this stage.

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.

The Department of Planning & Environment is introducing a new system for the statutory reference set of LEP maps, using internet web-based mapping service. This will supersede the mapping on the NSW Legislation website.

As this Planning Proposal approaches finalisation, the legal mapping will be prepared in the appropriate form required, based on the system in place at that time.

Part 5 – Development Control Plan

The relevant Development Control Plan [DCP] is ***Port Macquarie-Hastings Development Control Plan 2013***, which broadly consists of:

- Part 1 DCP Overview
- Part 2 General Provisions
- Part 3 Development Specific Provisions
- Part 4 Greater Port Macquarie Area-based Provisions.

Note that Chapter 1.1 also adopts by reference some area-based provisions from Part 5 of ***Port Macquarie-Hastings Development Control Plan 2011***, which is otherwise superseded.

Based on the considerations for the proposed land release, it is proposed that area-specific Development Control Plan provisions be exhibited and adopted relating to the following objectives:

- (a) Connectivity - local road alignments, intersection locations and pedestrian links.
- (b) Stormwater management - coordination and location (particularly where not covered by a VPA).
- (c) Sewerage services - long term arrangements, and, for the northern catchment, the coordination required for the interim solution.
- (d) Environmental Management - identification of KPoM requirements, the principles for offset planting, standards for long term management where in private ownership.
- (e) Western sub catchment - objectives for any combined rezoning and development proposal.

After adoption these provisions will be added to **Chapter 4.4 Port Macquarie West** of **Part 4** of ***DCP 2013***. There will be associated updates to **Chapters 1.1** and **4.1** to identify that these area-based provisions are in force.

The proposed provisions are contained in **Appendix B - Draft Development Control Plan**.

Part 6 – Voluntary Planning Agreements

Voluntary Planning Agreements [VPA] are an option for coordinating the provision of a public benefit associated with an amendment to a LEP or with a development application. Council can prepare Contribution Plans and Developer Servicing Plans, which set standard requirements for the relevant area. However, they do not readily accommodate unusual circumstances.

Negotiated VPAs allow for customisation of provision of public benefits, for coordination of staged development by adjoining landowners requiring shared infrastructure, for some recurrent expenditures and for conservation or enhancement of the natural environment. The legislative basis for VPAs is sections 93F - 93L of the EP&A Act, where they are called Planning Agreements - the first provision mentioned states they are **voluntary** agreements. The properties for which planning agreements are proposed are shown in Figure 15.

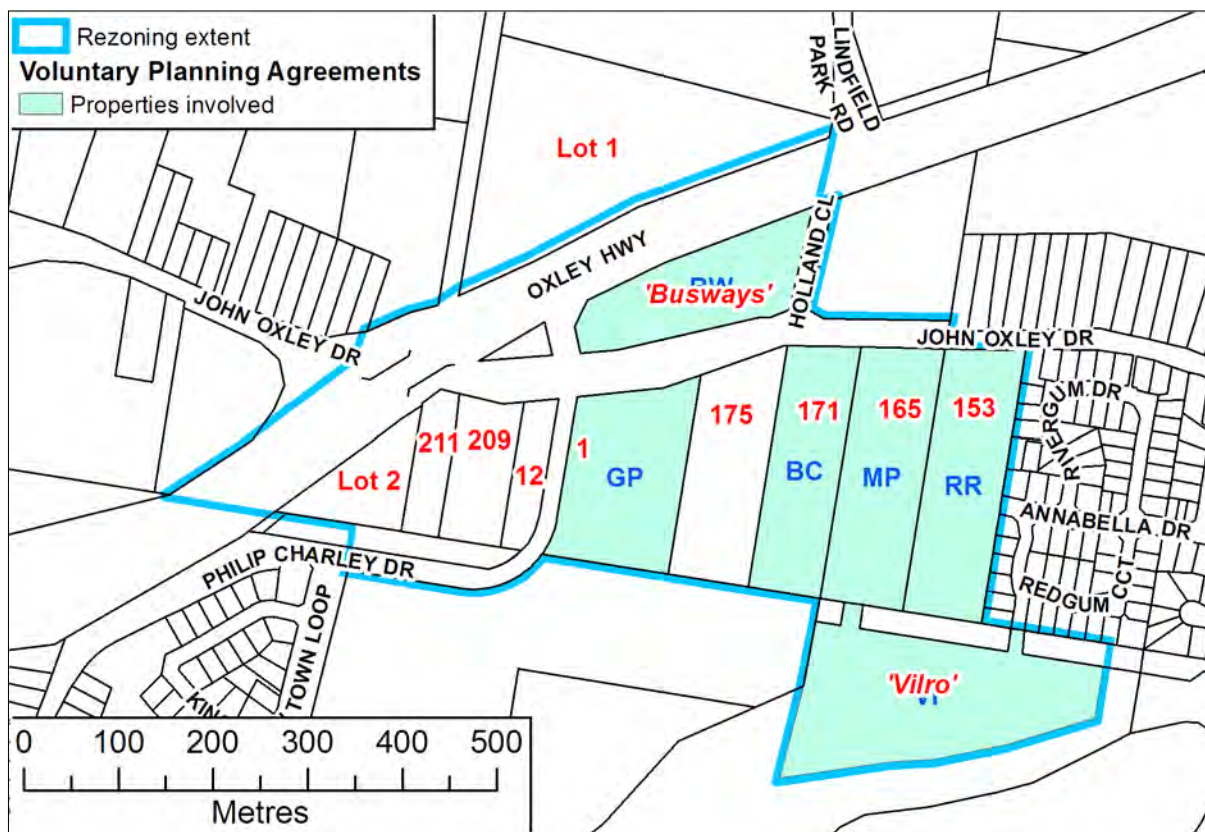


Figure 15 Properties with proposed VPAs

In this case VPAs are the most practical way of:

- coordinating shared:
 - stormwater catchment works
 - sewer catchment works
 - local road network, and
- managing environmental lands (embellishment and medium term maintenance).

Following receipt of offers to enter into VPAs, there have been negotiations over the precise details. For simplicity and consistency, standard formatting is used, with provisions only applying to specific properties as appropriate. Once there is agreement

over the VPAs and the developers (or landowners) have signed them, the VPAs have to be publicly exhibited for 28 days to allow for review of submissions prior to any decision by Council to formally sign the agreement.

Appendix C contains copies of the VPAs that it is proposed that Council agree to.

An explanation of the provisions of the VPAs follows:

[to be written when drafting of VPAs is completed]

Part 7 – Koala Plan of Management

Clause 3 of SEPP No 44 - Koala Habitat Protection states:

3 Aims, objectives etc

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:

- (a) by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- (b) by encouraging the identification of areas of core koala habitat, and
- (c) by encouraging the inclusion of areas of core koala habitat in environment protection zones.

Most commonly the SEPP is applied to development applications, with identification of whether the land contains core koala habitat. If so, a site-specific Koala Plan of Management [KPoM] is prepared and approved, and functions in conjunction with the development consent to guide development of that land. This means any conservation measures are restricted to only that land, although effective conservation measures may need to work across the home range of the local koala community.

However, KPoMs can be prepared for wider areas. And clause 15 of the SEPP states:

15 Surveys, environmental protection zones and development control plans

In order to give effect to the aims of this Policy, a council of a local government area listed in Schedule 1 should:

- (a) survey the land within its area so as to identify areas of potential koala habitat and core koala habitat, and
- (b) make or amend a local environmental plan:
 - (i) to include land identified as a core koala habitat within an environmental protection zone, or
 - (ii) to identify land that is a core koala habitat and apply special provisions to control the development of that land, and
- (c) give consideration to preparing an appropriate development control plan for land that is or adjoins a core koala habitat.

This release area has been identified as being within the home range of koalas, and containing core koala habitat. It is not enough to protect pockets of core koala habitat if koalas are unable to safely travel between these areas of habitat. Council engaged Naturecall Environmental consultants to prepare a draft Koala Plan of Management - a copy is contained in **Appendix D**. **Figure 16** shows the key habitat areas to be retained and the appropriate location of koala food trees.

Preparation of the draft LEP proposals, as described earlier in this Planning Proposal, has been guided by the draft KPoM.

However, some refinements to the draft KPoM are proposed. These will be subject to comment by the consultants and Office of Environment and Heritage, prior to any approval by both Council and the Department of Planning & Environment.

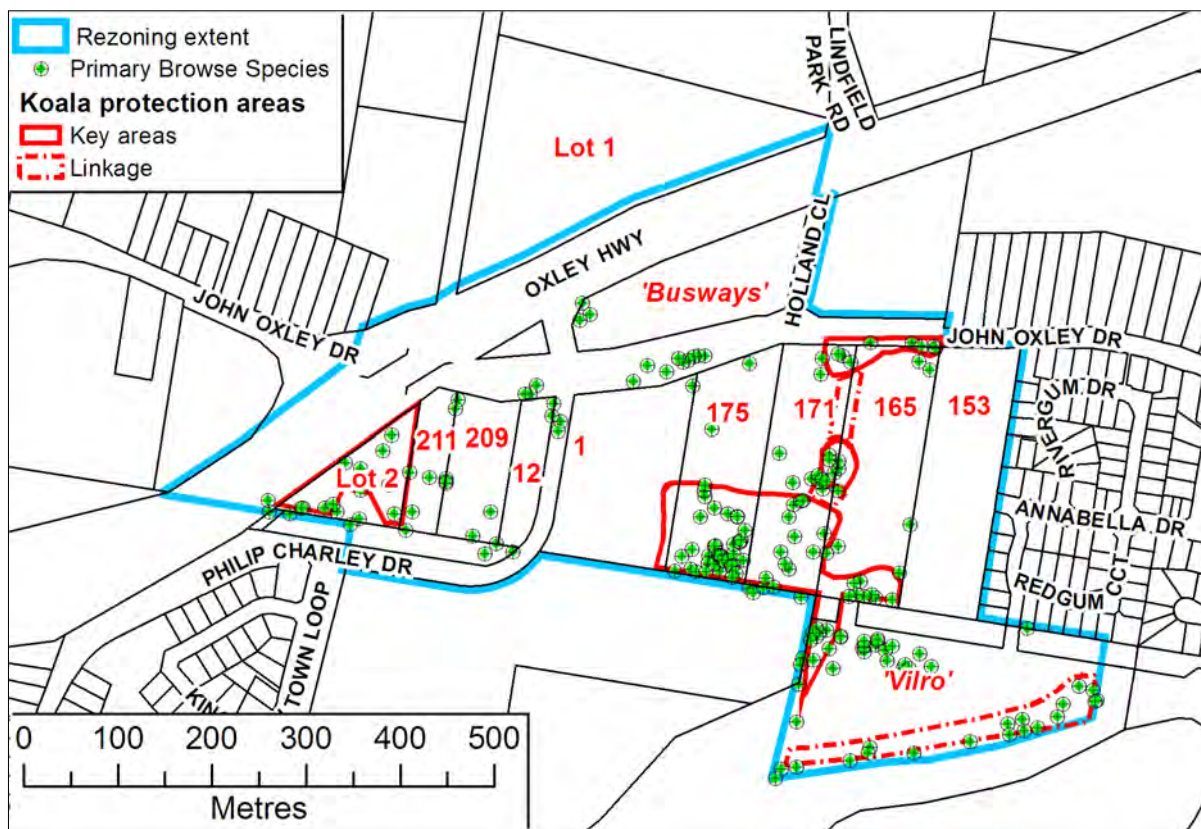


Figure 16 Key koala habitat areas to be retained and Koala food trees

If supported the KPoM will need to be revised to incorporate the following refinements.

1. Lot 2 DP 1186806 (the western lot)

The 'cut-out' in the 'key area' boundary midway along the southern boundary in Figure 2 of the draft KPoM was shown to provide a potential home site. Subsequent detailed vegetation assessment indicates that greater tree conservation would be achieved by locating any dwelling site in the southeast corner.

2. Lot 5 DP 630393, No 1 Philip Charley Drive

The area shown as a key area within this lot is cleared, and such designation is not warranted.

3. Lots 2-3 DP 533058, Nos 171 & 165 John Oxley Drive - north

The draft KPoM indicates a 'key area' extending along the northern boundary (adjoining John Oxley Drive) of Lots 2 and 3. Lot 2 contains a particularly favourite koala food tree in this location, and hence the key area is supported, with the need for safe linkages to the habitat areas to the south.

Within Lot 3 the 'key area' specifically contains two koala food trees on the eastern boundary, and it is considered that there is marginal benefit in their retention and encouraging koala movement alongside John Oxley Drive. Offsets can be provided as mentioned in the next point.

4. Lot 3 DP 533058, No 165 John Oxley Drive - south

The draft KPoM shows a 'key area' across the southern portion of Lot 3. This will be bisected by a least an emergency escape route from Lot 168 to the south.

It is considered that there would be greater benefit by focussing on embellishing the vegetation along the western boundary adjoining the vegetation within Lot 2 to the west.

5. Koala food trees within residential lots

The draft KPoM anticipates that there will be koala food trees within private properties, and that these trees should have legal protection. The preferred approach is to aim to have any koala food trees within public land. It would be desirable that fencing should facilitate egress from private properties in cases where koalas have wandered into them. This is most appropriate for properties adjoining the proposed koala corridor within Nos 165-171 John Oxley Drive, linking the northern E2 area with the larger E2 area to the south, as shown on **Figure 16**.

It may not be possible to strictly apply this in the western subprecinct - there are koala food trees within the western lot upon which a dwelling can be constructed. Furthermore, any detailed proposal for higher density redevelopment within the other 3 lots in this subprecinct will need to address protection of koala food trees. It may not be possible to have all the koala food trees within public or conservation land. Given the different approach, it is appropriate to apply zones E3 Environmental Management and E4 Environmental Living within this subprecinct.

6. Dog-free area

Given the limited size of the precinct, and the connectivity to Annabella Drive and development along Philip Charley Drive, it is considered on balance that restrictions on keeping dogs would provide negligible benefit. The central conservation area zoned E2 should still be dog-free, and should be sign-posted to that effect.

7. Vegetation Management Plans

To reduce the amount of separate documentation, it is proposed that requirements for VMPs be replaced by specific requirements within the KPoM.

8. Replacement planting

The draft KPoM states that planting on private land should be at an offset ratio of 1: 5.

Given the land fragmentation and limited areas for offset planting, it is proposed in this case to reduce this to offset planting at a ratio of 1:4.

9. Fencing

Except for the western subprecinct, as it is proposed that koala food trees not be within private property (other than the designated conservation area within the Vilro land), the focus on koala-friendly fencing is on facilitating egress from private properties.

Part 8 – Community Consultation

The proposal is largely 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,
- is not a principal LEP, and
- does not reclassify public land.

However, there are particular challenges with regard to infrastructure servicing, and exhibitions of the draft DCP and the draft VPAs require a minimum of 28 days.

On this basis a public exhibition period of at least 28 days is appropriate.

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 adjoining landowners.

Part 9 – 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.

	2016												2017		
Anticipated dates	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
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	X										
Voluntary Planning Agreement - first draft		X	X												
VPA - liaison with landowners				X	X										
VPA - negotiations					X	X									
Commencement and completion dates for public exhibition period (incl VPAs)							X	X							
Dates for public hearing (if required)															
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 (if not delegated)											X				
Date Council will make the plan (if delegated)												X			
Date Council will forward to the department for notification.													X		

Note: The timeline assumes combined exhibition of the draft LEP changes, DCP changes, draft KPOM and proposed VPAs. The timeline is dependent on negotiations over the VPAs.

Appendix A – 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 B – Draft Development Control Plan

Refer to **Part 5** of the text for further information. The proposed new Chapter 4.4 follows.

Note that

1. There will be associated updates to Chapters 1.1 and 4.1 to identify that there are area-based provisions for South Lindfield.
2. There is limited change to Section 4.4.1 (updates to Figure 4.4-1), and no amendment to Section 4.4.2. The current Section 4.4.3 (Amendment history) becomes Section 4.4.4.

The draft DCP is not included in this version (as submitted for Gateway determination).

Appendix C – Voluntary Planning Agreements

Refer to **Part 6** of the text for further information.

[The draft Voluntary Planning Agreements associated with this planning proposal will be included here for the public exhibition. They will not be included prior to then.]

There is a separate Voluntary Planning Agreement between each developer/landowner and Council, though the content is virtually identical. It is required that Council give public notice of each agreement. The proposed agreements are in the following order:

Ref	Party	Property

Appendix D – Koala Plan of Management

The draft Koala Plan of Management associated with this planning proposal follows. Refer to **Part 7** of the text for further information.

[56 pages - supplied as separate PDF prior to exhibition]

Appendix E – Public Authority comments

Part 3 Item 11 discusses the views of public authorities.

Copies of their comments follow.

[Note - can only be added following consultation with the public authorities.]

Appendix F – Consistency with applicable State Environmental Planning Policies

Listed below are the SEPPs that apply to land within the Port Macquarie-Hastings Local Government Area.

State Environmental Planning Policies	Consistency
14 Coastal Wetlands	Not relevant
15 Rural Landsharing Communities	Not relevant. Applies to land zoned rural, with a minimum area of 10 hectares.
21 Caravan Parks	Change of zone will affect permissibility - permissible with consent on land proposed to be zoned R1 General Residential.
26 Littoral Rainforests	Not relevant
30 Intensive Agriculture	Not relevant
32 Urban Consolidation (Redevelopment of Urban Land)	Not relevant
33 Hazardous and Offensive Development	Not relevant
36 Manufactured Home Estates	Change of zone will affect permissibility - permissible with consent on land proposed to be zoned R1 General Residential.
44 Koala Habitat Protection	This SEPP is most usually applied to development applications, but clause 15 instructs Councils to identify and protect core koala habitat. The release area is within a home range of koalas. If development is to proceed within this area, it is likely that there would be a requirement for a Koala Plan of Management [KPoM] to be prepared and lodged with most development applications. To enable better strategic planning for future development of this area, and to avoid the need for individual KPoMs with future development applications, a draft KPoM has been prepared, and has been used to guide preparation of the draft LEP and DCP provisions. More detailed consideration of the draft KPoM is contained in Part 7, and Appendix D contains a copy of the draft KPoM.
50 Canal Estate Development	Not relevant
55 Remediation of Land	Broadly this SEPP requires that in proposing LEP amendments that would permit a change of land use, the planning authority is to: (a) consider whether the land is contaminated, and (b) if so, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and (c) if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose. The property on the southeastern corner of John Oxley Drive and Philip Charley Drive has previously been used as an orchid nursery, with potential contamination from chemicals used. Regional Geotechnical Solutions Pty Ltd prepared a <i>Geotechnical and Stage 1 Contamination Assessment</i> (May

State Environmental Planning Policies	Consistency
	2015) for the property. The laboratory results were that: - Concentrations of heavy metals were above detection, but were below adopted health investigation criteria for a residential site, with the exception of chromium; - Total chromium concentrations exceeded the guideline level for the hexavalent form of chromium. Chromium speciation was subsequently undertaken and confirmed that only the trivalent form was present and the chromium hexavalent concentrations were below detection; - Concentrations of hydrocarbon contaminants were below detection; and - Concentrations of herbicide/pesticide contaminants were below detection. There is no concern with the level of the trivalent form of chromium. In addition, an asbestos cement pipe was encountered, and there is the potential for asbestos-containing materials in the existing dwellings. One of the dwellings has since been removed. While there should be the general presumption that there is asbestos in older dwellings, in this case it has been explicitly identified that there are buried asbestos cement pipes on this property.
62 Sustainable Aquaculture	Not relevant
64 Advertising and Signage	Change of zone will affect permissibility of different types of signage.
65 Design Quality of Residential Flat Development	Change of zone will permit development to which this SEPP applies.
71 Coastal Protection (<i>c/l</i> 7-8)	Not relevant
(Affordable Rental Housing) 2009	Change of zone will permit development to which this SEPP applies.
(Building Sustainability Index: BASIX) 2004	Will continue to apply
(Exempt and Complying Development Codes) 2008	This 'Codes SEPP' permits a wide range of development as exempt (no approval required when specified requirements are satisfied) or complying development (fast track approval based on meeting set criteria, with no merit considerations). In LEP 2011 some of the release area is already identified on the Acoustic Controls Map as 'Subject to acoustic controls', and hence subject to LEP clause 7.9 Development subject to acoustic controls. This is a buffer area for the purposes of clause 1.19 of the Codes SEPP, which precludes dwelling houses being allowed as complying development. In LEP 2011 the Vilro land is identified on the Koala Habitat Map as 'Koala habitat area', and hence subject to LEP clause 7.5 Koala habitat. This is an ecologically sensitive area for the purposes of clause 1.19 of the Codes SEPP, which precludes dwelling houses being allowed as complying development. The draft LEP proposes to map the balance of the land south of Philip Charley Drive as 'Koala habitat area'. This will extend the area over which dwelling houses cannot be approved as complying development.

State Environmental Planning Policies	Consistency
	The Codes SEPP anticipates that there will be areas where it is not appropriate to permit development without full development application assessment.
(Housing for Seniors or People with a Disability) 2004	Change of zone will permit development to which this SEPP applies.
(Infrastructure) 2007	The 'Infrastructure SEPP' permits a wide range of infrastructure-related development independently of the provisions of the LEP. In addition, it specifies when assessment of development applications require consultation with the NSW Roads and Maritime Services in relation to the traffic generation implications.
(Major Development) 2005	Not relevant
(Mining, Petroleum Production and Extraction Industries) 2007	Not relevant
(Rural Lands) 2008	This SEPP will no longer apply to the release area other than for land which is within an environment protection zone.
(State and Regional Development) 2011	Applies irrespective of zoning changes, but only relevant to larger development - unlikely within this release area.
(Temporary Structures) 2007	Not relevant

There are no inconsistencies with the SEPPs.

Appendix G – Consistency with applicable Section 117 Ministerial Directions

Listed below are the Section 117 (2) Directions (including Objectives) that apply to land within the Port Macquarie-Hastings Local Government Area.

Copies of the full Directions are available on the Department of Planning & Environment website.

Section 117(2) Directions and Objectives	Consistency
1 Employment and Resources	
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.	The property north of John Oxley Drive has been identified in the <i>Mid North Coast Regional Strategy 2006-31</i> and <i>Urban Growth Management Strategy 2011-2031</i> for future zoning for employment purposes. The owner of land has indicated a desire to construct a bus depot ('transport depot' as defined as in the LEP). It is proposed to zone the land IN2 Light Industrial, which would permit with consent a range of employment-related uses, including a transport depot.
1.2 Rural Zones The objective of this direction is to protect the agricultural production value of rural land. The direction states that a planning proposal must: (a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone. (b) not contain provisions that will increase the permissible density of land within a rural zone (other than land within an existing town or village).	A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or his delegate) that the provisions of the planning proposal that are inconsistent are: ... (c) in accordance with the relevant Regional Strategy or Sub-Regional Strategy prepared by the Department of Planning which gives consideration to the objective of this direction, ... This land has been identified in the <i>Mid North Coast Regional Strategy 2006-31</i> for partly Proposed Future Urban Release Area and partly Proposed Employment Lands. Approval for this inconsistency is required.
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.	Not relevant
1.4 Oyster Aquaculture The objectives of this direction are: (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.	Not relevant

Section 117(2) Directions and Objectives	Consistency
1.5 Rural Lands The objectives of this direction 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. This direction applies when: (a) a relevant planning authority prepares a planning proposal that will affect land within an existing or proposed rural or environment protection zone (including the alteration of any existing rural or environment protection zone boundary) or (b) a relevant planning authority prepares a planning proposal that changes the existing minimum lot size on land within a rural or environment protection zone.	A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or his delegate) that the provisions of the planning proposal that are inconsistent are: (a) justified by a strategy which: i. gives consideration to the objectives of this direction, ii. identifies the land which is the subject of the planning proposal (if the planning proposal relates to a particular site or sites, and iii. is approved by the Director-General of the Department of Planning and is in force. This land has been identified in the <i>Mid North Coast Regional Strategy 2006-31</i> for partly Proposed Future Urban Release Area and partly Proposed Employment Lands. Approval for this inconsistency is required.
2 Environment and Heritage	
2.1 Environmental Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas. The direction requires: (4) A planning proposal must include provisions that facilitate the protection and conservation of environmentally sensitive areas. (5) A planning proposal that applies to land within an environment protection zone or land otherwise identified for environment protection purposes in a LEP must not reduce the environmental protection standards that apply to the land (including by modifying development standards that apply to the land). This requirement does not apply to a change to a development standard for minimum lot size for a dwelling in accordance with clause (5) of Direction 1.5 “Rural Lands”.	The direction requires that this planning proposal include provisions that facilitate the protection and conservation of the areas of endangered ecological communities and the core koala habitat. A planning proposal may be inconsistent with the terms of this direction only if the relevant planning authority can satisfy the Secretary of the Department of Planning (or his delegate) that the provisions of the planning proposal that are inconsistent are: ... (b) justified by a study prepared in support of the planning proposal which gives consideration to the objectives of this direction, As detailed elsewhere, particularly in Part 7, it is proposed that development of some environmentally sensitive areas be allowed when there is an overall benefit from offset planting - such as embellishing another sensitive area or providing connectivity. The areas proposed for development are generally isolated and small, exposing fauna to undue risks in accessing them. The proposed offset areas tend to enlarge or otherwise enhance larger and better located environmental areas, On balance a better outcome is achieved. Approval for this inconsistency is required.
2.2 Coastal Protection The objective of this direction is to implement the principles in the NSW Coastal Policy.	Not relevant
2.3 Heritage Conservation The objective of this direction is to conserve items,	Within the release area there are no items, areas, objects and places of heritage significance known

Section 117(2) Directions and Objectives	Consistency
areas, objects and places of environmental heritage significance and indigenous heritage significance. The Direction requires that a planning proposal must contain provisions that facilitate the conservation of: (a) items, places, buildings, works, relics, moveable objects or precincts of environmental heritage significance to an area, in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, area, object or place, identified in a study of the environmental heritage of the area, (b) Aboriginal objects or Aboriginal places that are protected under the National Parks and Wildlife Act 1974, and (c) Aboriginal areas, Aboriginal objects, Aboriginal places or landscapes identified by an Aboriginal heritage survey prepared by or on behalf of an Aboriginal Land Council, Aboriginal body or public authority and provided to the relevant planning authority, which identifies the area, object, place or landscape as being of heritage significance to Aboriginal culture and people.	by Council. There is no inconsistency.
2.4 Recreation Vehicle Areas The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Not relevant
3 Housing, Infrastructure and Urban Development	
3.1 Residential Zones The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	Consistent
3.2 Caravan Parks and Manufactured Home Estates The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	Consistent
3.3 Home Occupations The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Consistent
3.4 Integrating Land Use and Transport The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and	Consistent

Section 117(2) Directions and Objectives	Consistency
(c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	
3.5 Development Near Licensed Aerodromes The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes, and (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF) contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	This direction applies when a relevant planning authority prepares a planning proposal that will create, alter or remove a zone or a provision relating to land in the vicinity of a licensed aerodrome. Excluding the Oxley Highway, the release area is about 1900 m from the runway of Port Macquarie Airport, and 900 m from the southern approach and take-off path. Figure 17 shows the Obstacle Limitation Surface heights & ANEF contours in the proximity of the release area. The Obstacle Limitation Surface (OLS) over the release area is 47.5 m AHD, which is 22 m higher than the highest portion of the release area. While clause 7.7 (Airspace operations) of the LEP addresses this, the building height limits on the LEP Height of Buildings Map are more restrictive at 8.5 m. The release area is nearly 1 kilometre from the 20 ANEF noise contour associated with the airport, and so is not affected by LEP clause 7.8 (Development in areas subject to aircraft noise). Traffic noise from the Oxley Highway is more significant. Based on the above, most of the requirements of the direction are satisfied. The remaining requirement of the direction to be satisfied is consultation with the Department of the Commonwealth responsible for aerodromes and the lessee of the aerodrome - Council is the operator of the aerodrome, so consultation with the Commonwealth Department is required.

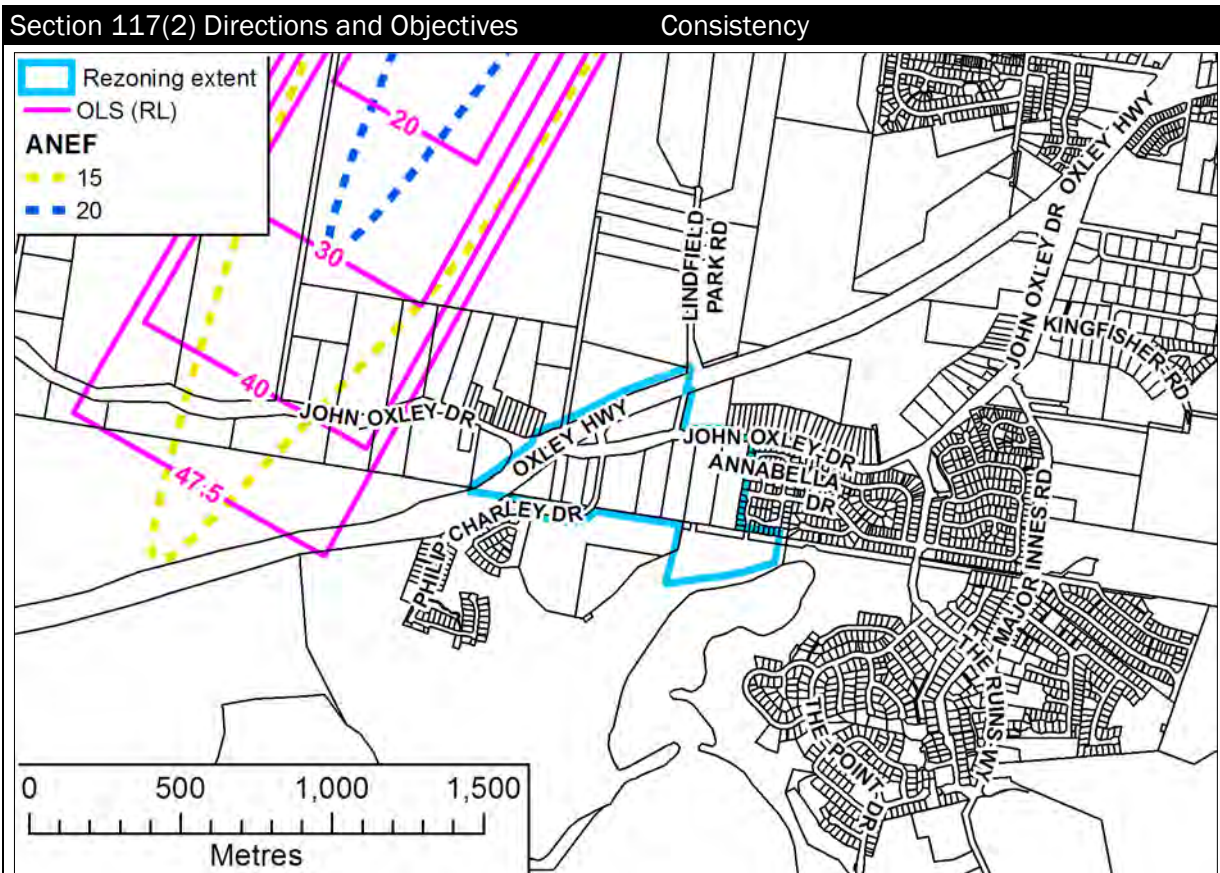


Figure 17 Airport OLS and ANEF

3.6 Shooting Ranges The objectives are: (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	Not relevant
4 Hazard and Risk 4.1 Acid Sulfate Soils The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	This direction applies when a relevant planning authority prepares a planning proposal that will apply to land having a probability of containing acid sulfate soils as shown on the Acid Sulfate Soils Planning Maps. Figure 18 shows Council's mapping of acid sulfate soils [ASS] - within the land subject to this planning proposal only the Oxley Highway and the 5 m wide strip on its northern side are subject to ASS classification. The classification '5' relates to works in the vicinity of other acid sulfate soils, regarding the potential for those works to lower ground water levels within those other ASS areas. The mapping has not been updated for the filling associated with the current Oxley Highway alignment. The proposed rezoning for this land

Section 117(2) Directions and Objectives	Consistency
	will not have any impact on the acid sulfate soil or associated risk. The strip of land on the northern side is proposed to be rezoned from IN2 Light Industrial to E3 Environmental Management, to reflect that there will be a strip of landscaping between the highway and industrial land uses on the adjoining land. The proposed rezoning for this land will not have any impact on the acid sulfate soil or associated risk.

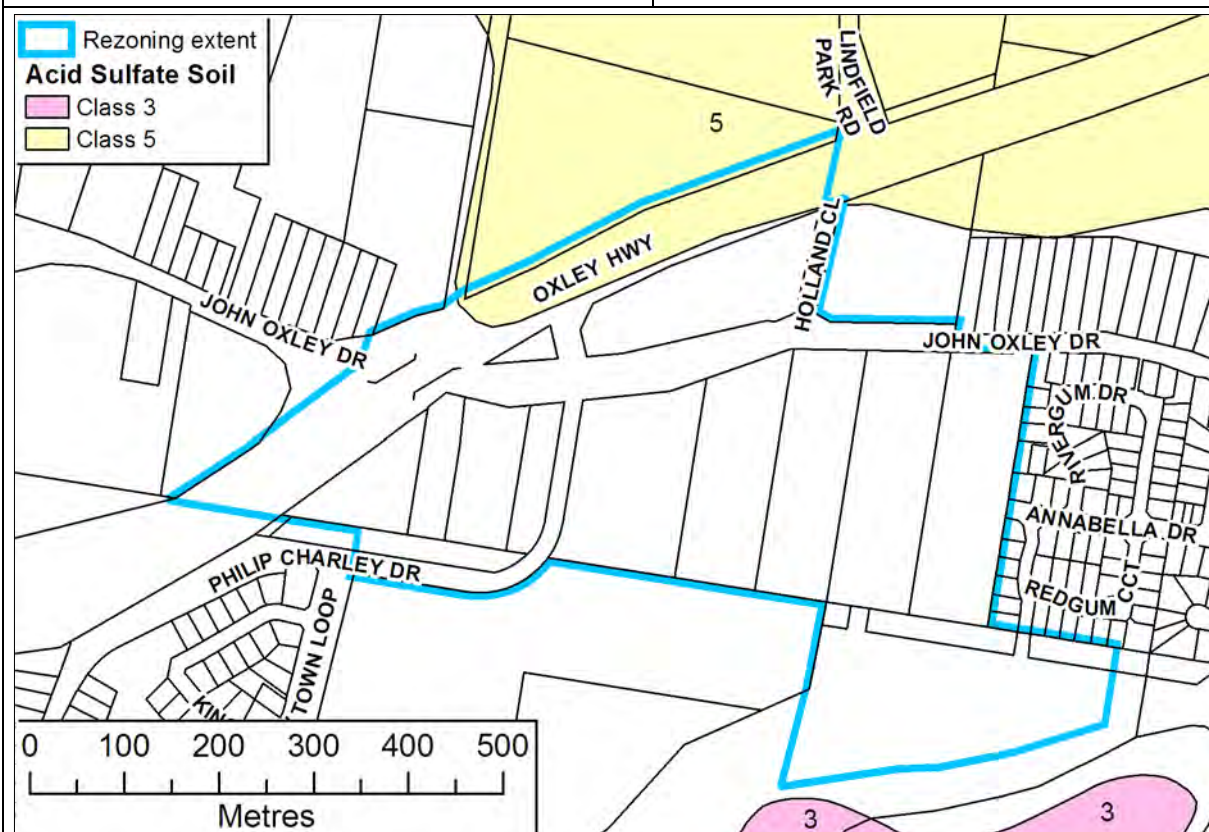


Figure 18 Acid Sulfate Soil classifications

4.2 Mine Subsidence and Unstable Land The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	
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 <i>Floodplain Development Manual 2005</i>, 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. This direction applies when a relevant planning authority prepares a planning proposal that creates, removes or alters a zone or a provision that affects flood prone	The key guidance is in the <i>Floodplain Development Manual 2005</i>, which defines flood prone land [FPL] as land susceptible to flooding by the probable maximum flood [PMF] event. The PMF is the largest flood that could conceivably occur at a particular location, usually estimated from probable maximum precipitation, coupled with the worst flood producing catchment conditions. Generally, it is not physically or economically possible to provide complete protection against this event. Based on the Manual, the LEP has a Flood Planning Map, identifying a 'flood planning area'

Section 117(2) Directions and Objectives	Consistency
land.	and beyond that a line identifying the 'Level of Probable Maximum Flood', which respectively relate to LEP clauses: 7.3 Flood planning Flood related development controls applying to land affected by the 1% Annual Exceedance Probability flood event plus a freeboard for wave and sea level rise. 7.4 Floodplain risk management Applies to emergency services and evacuation-sensitive development that generally should not be upon land subject to extreme flood events. Figure 19 shows the flood planning area and the additional land identified as below the level of the probable maximum flood. Within this locality there is backwater flooding of the Hastings River floodplain which can reach John Oxley Drive. This flood mapping has not been updated for the filling associated with the current Oxley Highway alignment, and the extent to which backwater flooding would come under the Oxley Highway to the southern side has not been modelled, though it should be lessened. However, closer scrutiny will be given to this in any development proposal. The strip of land on the northern side, proposed to be rezoned from IN2 Light Industrial to E3 Environmental Management, is flood prone land. The proposed rezoning for this land is compatible with the Direction. On the southern side the Vilro property is marginally affected by the flood prone land, though on likely development concepts the affected portion would have minimal development. There are minor variations to the Direction in both cases. A planning proposal may be inconsistent with this direction only if the relevant planning authority can satisfy the Secretary (or an officer of the Department nominated by the Secretary) that: ... (b) the provisions of the planning proposal that are inconsistent are of minor significance. Approval for this inconsistency is required.

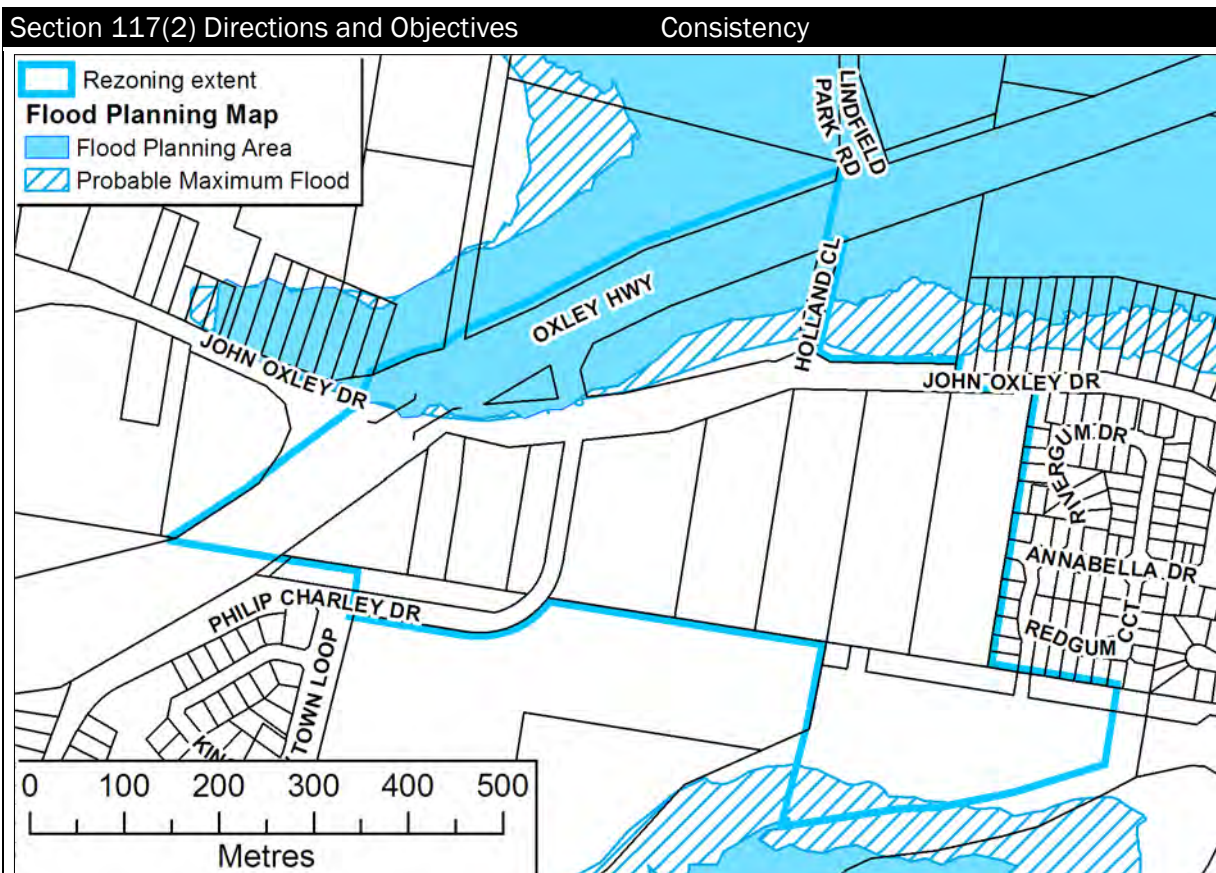


Figure 19 Flooding

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.

Further details:

When this direction applies

This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land.

What a relevant planning authority must do if this direction applies

- (4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking community consultation in satisfaction of section 57 of the Act, and take into account any comments so made,
- (5) A planning proposal must:
 - (a) have regard to *Planning for Bushfire Protection* 2006,
 - (b) introduce controls that avoid placing

Figure 20 is an extract from the current Bush Fire Prone Land Map, prepared under section 146 of the EP&A Act. It shows that some parts of the Vilro property are designated as Category 1, and other parts of the southern of the release area designated as buffer.

In relation to the vegetation proposed to be retained in the middle of the release area and within the Vilro land, it is anticipated that adequate Asset Protection Zones [APZ] can be provided, particularly using perimeter roads. Other vegetation (except in the western precinct) will either be removed or be insignificant as a bushfire risk.

For the cluster of four smaller lots west of Philip Charley Drive, it is more difficult to identify a broad solution which provides appropriate bush fire safety. This planning proposal only includes one additional dwelling, within the western-most lot. Further development of these lots will require a detailed development proposal which meets the objectives set out in **Part 5**.

Consistency with subclause (4)

There will be consultation with the Commissioner following receipt of the Gateway determination and prior to undertaking community consultation.

Section 117(2) Directions and Objectives	Consistency
inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. (6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.	Technically there is no consistency until that consultation is completed. <u>Consistency with subclause (5)</u> The proposal has had regard to <i>Planning for Bushfire Protection 2006</i>. The proposal relies on the current controls and assessment process, and technically is inconsistent by not introducing further controls. Clause 5.11 of the LEP currently authorises bushfire hazard reduction without consent. No change is proposed. <u>Consistency with subclause (6)</u> There is no specific development proposal, although development is anticipated. Future development will be assessed in accordance with <i>Planning for Bushfire Protection 2006</i>, as part of the development application process. If this subclause relates only to planning proposals applying to a specific development, there is no inconsistency. If the planning proposal is meant to anticipate development application level details without the benefit of DA plans, then the planning proposal is inconsistent with the Direction. Approval for these inconsistencies is required.

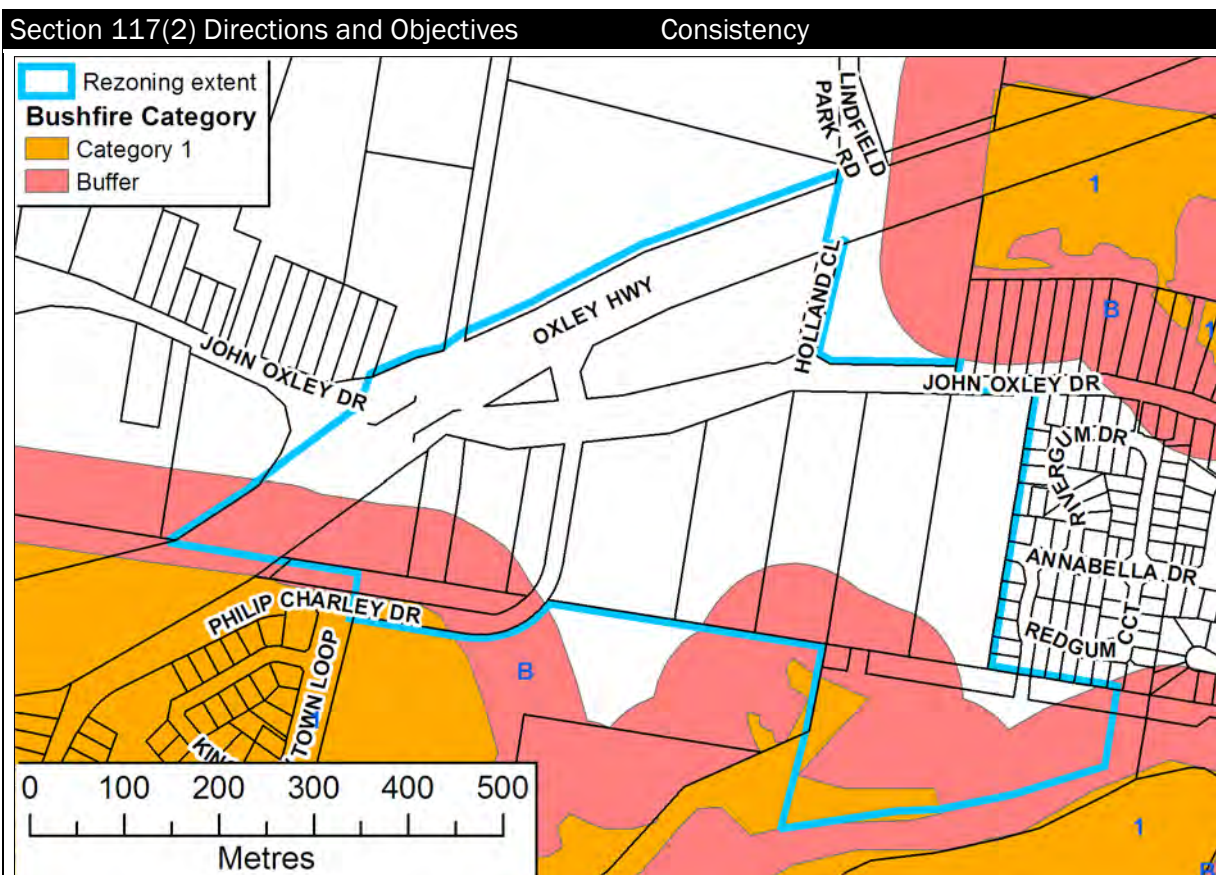


Figure 20 Bushfire Category

5 Regional Planning	
5.1 Implementation of Regional Strategies The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in regional strategies.	The Direction requires that planning proposals must be consistent with a regional strategy released by the Minister for Planning. As discussed in Part 3 , this planning proposal is consistent with the <i>Mid North Coast Regional Strategy 2006-31</i> .
5.4 Commercial & Retail Development along the Pacific Hwy, North Coast The objectives for managing commercial and retail development along the Pacific Highway are: (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route; (b) to prevent inappropriate development fronting the highway; (c) to protect public expenditure invested in the Pacific Highway; (d) to protect and improve highway safety and highway efficiency; (e) to provide for the food, vehicle service and rest needs of travellers on the highway; and (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.	Not relevant
6 Local Plan Making	

Section 117(2) Directions and Objectives	Consistency
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent
6.2 Reserving Land for Public Purposes The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Consistent It is noted that no property will be totally affected by the proposed E2 Environmental Conservation zones. Any proposed acquisition is addressed by Voluntary Planning Agreements.
6.3 Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent

Appendix H – LEP Map Sheets

Refer to **Part 4 - Mapping** in relation to both the proposed changes to the LEP maps, and to the way in which LEP Maps will be handled in the future.

This Appendix provides details for the maps consistent with the process in force at the time of drafting. It describes what the Map Cover Sheet will contain. If necessary, it will contain copies of the proposed new LEP map sheets.

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.

Where printed, the Map Cover Sheet could follow this page, and be followed by the draft map sheets to be adopted.

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

The key content of the Map Cover Sheet (excluding title and space for signatures) follows.

The following map sheets are revoked:

Map sheets	Map sheet identifier
Land Zoning Map LZN_013D	6380_COM_LZN_013D_020_20150317
Lot Size Map LSZ_013D	6380_COM_LSZ_013D_020_20150317
Dwelling Opportunity Map DWE_013D	6380_COM_DWE_013D_020_20110125
Floor Space Ratio Map FSR_013D	6380_COM_FSR_013D_020_20140325
Height of Building Map HOB_013D	6380_COM_HOB_013D_020_20150317
Koala Habitat Map KHA_013D	6380_COM_KHA_013D_020_20140219

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

The following map sheets are adopted:

Map sheets	Map sheet identifier
Land Zoning Map LZN_013D	6380_COM_LZN_013D_020_2016____
Lot Size Map LSZ_013D	6380_COM_LSZ_013D_020_2016____
Dwelling Opportunity Map DWE_013D	6380_COM_DWE_013D_020_2016____
Floor Space Ratio Map FSR_013D	6380_COM_FSR_013D_020_2016____

Map sheets	Map sheet identifier
Height of Building Map HOB_013D	6380_COM_HOB_013D_020_2016____
Koala Habitat Map KHA_013D	6380_COM_KHA_013D_020_2016____

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. Such changes have no significance to this Planning Proposal.

If necessary, copies of the LEP map sheets proposed for adoption, as listed above, will follow this page.