

(FUTURE) PUBLIC EXHIBITION DATES

(Start) to (Finish)

Planning Proposal under section 55 of the EP&A Act

Port Macquarie-Hastings LEP 2011 (Amendment No 38)

Administrative Refinements

Ccl ref: DD032.2015.00000004.001

DPI ref: 16/02289

Date: 19/02/2016



**PORT MACQUARIE
HASTINGS**

Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Adopted by Council & referred to Dept of Planning (sec 56 (1))	22/01/2016
Revised version	19/01/2016
Gateway Panel determination (sec 56 (2))	
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Public Exhibition (where applicable) (sec 57)	
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Port Macquarie-Hastings LEP 2011 (Amendment No 38)

Department of Planning & Environment reference: 16/02289

Council Address

Port Macquarie-Hastings Council
PO Box 84
PORT MACQUARIE NSW 2444

Contact Officer

Stephen Nicholson
Senior Strategic Planner
Email stephen.nicholson@pmhc.nsw.gov.au
Phone 02 6581 8529

Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on 19 February 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".

Details of the amendments contained in this **Planning Proposal PP2015-4.1** are contained in **Appendix A**, found on pages 20 to 36. They cover:

- Issue 1: Zone B5 Business Development - allow Veterinary hospitals
- Issue 2: Clause 7.14 Eco-tourist facilities - additional provisions
- Issue 3: Laurieton Men's Shed, Dunbogan
- Issue 4: Additional permitted uses - Cassegrain winery
- Issue 5: Land zoned IN2, corner of High Street and Beechwood Road, Wauchope
- Issue 6: E2 zoning slivers within Mill Hill subdivisions
- Issue 7: Lot 123 DP 1148180, Bronzewing Terrace, Lakewood
- Issue 8: Subdivision of Oxley Club land, Oxley Highway Wauchope

The specifics of how the LEP would be amended are described in **Appendix B**, found on pages 37 to 38. The Planning Proposal contains statements of the intent for changes to the LEP text, but not the specific wording.

The location of the affected land is shown in **Part 4**, on pages 14 to 17.

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

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 - PP2015-4.1, and be

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

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

Note that any submission may be made public.

Further information

Please contact Stephen Nicholson on phone 02 6581 8111.

Table of Contents

Planning Proposal	5
Background	5
Part 1 - Objectives or Intended Outcomes.....	7
Part 2 - Explanation of Provisions.....	7
Part 3 – Justification.....	7
A - Need for the planning proposal.	7
B - Relationship to strategic planning framework.	7
C - Environmental, social and economic impact.....	12
D - State and Commonwealth interests.	13
Part 4 – Mapping.....	14
A - Affected land.....	14
B - Draft LEP maps.....	14
Part 5 – Community Consultation	18
Part 6 – Project Timeline	19
Appendix A – Details of Issues being addressed	20
Issue 1: Zone B5 Business Development - allow Veterinary hospitals.....	20
Issue 2: Clause 7.14 Eco-tourist facilities - additional provisions.....	21
Issue 3: Laurieton Men's Shed, Dunbogan	22
Issue 4: Additional permitted uses - Cassegrain winery.....	24
Issue 5: Land zoned IN2, corner of High Street and Beechwood Road, Wauchope	26
Issue 6: E2 zoning slivers within Mill Hill subdivisions.....	28
Issue 7: Lot 123 DP 1148180, Bronzewing Terrace, Lakewood	32
Issue 8: Subdivision of Oxley Club land, Oxley Highway Wauchope	35
Appendix B – List of proposed amendments.....	37
A. Changes to text	37
B. Changes to Map Sheets	38
Appendix C – Gateway Determination	39
Appendix D – Public authorities' responses.....	40
Appendix E – Map Sheets to be adopted.....	41

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	LEP 2011 Amendment No 38 - Administrative Refinements, relating to 8 Issues
Applicant Details	Port Macquarie-Hastings Council
Brief history	<i>Port Macquarie-Hastings Local Environmental Plan 2011</i> was prepared broadly as a straight conversion from previous LEPs to the 'template-based' format. Ongoing application of the LEP continues to bring to the attention of Council details which do or could unintentionally hinder the operation of the LEP. Broadly each year Council prepares a LEP which seeks to rectify the latest set of such Issues.
Property Details	Issue 1 applies to land within Zone B5 Business Development. Issue 2 applies to land within Zones RU1 Primary Production and RU2 Rural Landscape. The specific land affected by the remaining issues is identified in Appendix A.
Land owner	Numerous, as affected by each Issue.
Location	Different locations are affected by different Issues, as described in Appendix A . For the general locations, refer to Part 4 .

External references

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

Port Macquarie-Hastings Local Environmental Plan 2011 text and Maps

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

Environmental Planning and Assessment Act 1979

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

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

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

Section 117 Ministerial Directions

<http://www.planning.nsw.gov.au/Plans-for-Your-Area/Local-Environmental-Plans/Plan-making>

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

<http://www.planning.nsw.gov.au/Plans-for-Your-Area/Regional-Growth-Plans/North-Coast/Resources>

Port Macquarie-Hastings Urban Growth Management Strategy 2011-2031

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

Part 1 - Objectives or Intended Outcomes

The Planning Proposal seeks to rectify anomalies, to update details, and to streamline the consideration of future development by removing unnecessary restrictions within *Port Macquarie-Hastings Local Environmental Plan 2011*. The 8 specific Issues are listed in Appendix A.

Part 2 - Explanation of Provisions

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

The changes arising from the Issues described in **Appendix A** are summarised in **Appendix B** in a way that indicates the likely content of an amending LEP.

Part 3 – Justification

A - Need for the planning proposal.

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

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

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

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

B - Relationship to strategic planning framework.

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

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

Issue 2 (as described in **Appendix A**) aligns with the following economic development and employment growth outcome:

'Opportunities for smaller scale minimum-impact tourism ventures outside prime tourism development areas which relate to the landscape and the environment will be provided.'

Issue 6 superficially could be seen to be incompatible with the Strategy actions to protect habitats and corridors, but, as described in **Appendix A**, the current E2 Environmental Conservation zone has been undermined by other factors, and it is now ineffective.

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

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

Issue 2 relates to a refinement of the LEP provisions associated with eco-tourist facilities, which arose from UGMS Implementation Action 35:

Proposed “Ecotourism” definition to be added to the new Port Macquarie-Hastings LEP and appropriate DCP provisions developed to aid assessment of Ecotourism developments.

Issues 4 and 5 are consistent with UGMS objectives of:

To stimulate economic development and employment opportunities to meet the future needs of the Port Macquarie-Hastings community, in locations that strengthen the hierarchy of urban centres and achieve efficient use of infrastructure and transport systems.

Issue 5 is consistent with UGMS objectives of:

To stimulate economic development and employment opportunities to meet the future needs of the Port Macquarie-Hastings community, in locations that strengthen the hierarchy of urban centres and achieve efficient use of infrastructure and transport systems.

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

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

(a) State Environmental Planning Policy No 44 - Koala Habitat Protection

Issue 6 superficially could be seen to be incompatible with clause 15 of this SEPP, which states that should include land identified as a core koala habitat within an environmental protection zone. However, as described in **Appendix A**, the current E2 Environmental Conservation zone has been undermined by other factors, and it is now ineffective.

(b) State Environmental Planning Policy No 55 - Remediation of Land

This SEPP provides a framework for managing land containing contaminated soils. In particular, clause 6 requires that if a proposed rezoning could permit a change of land use, then the planning authority:

- is to consider whether the land is contaminated,
- is to be satisfied that the land is suitable (possibly after remediation) for all the permitted land uses in the proposed zone, and
- is, where remediation is required, to be satisfied that the land will be remediated prior to the future land use.

Some of the land zoned B5 Business Development (affected by **Issue 1**) is identified as contaminated land, with either Class B, D or E. Class B means that, based on past land use, contamination is possible but undetermined. Class D means that the site has been remediated to a standard suitable for permitted land uses within that zone. Class E means that the site has been remediated to a standard suitable for sensitive land uses. Under the current zoning a range of commercial land uses are possible, and when appropriate, the processing application requirements of the SEPP are applied to development applications. **Issue 1** merely proposes to make veterinary hospitals a further land use permitted with consent. Where appropriate, the same processes for assessment will apply to the land subject to Class B.

Issue 2 relates to general provisions for eco-tourist facilities within the RU1 Primary Production and RU2 Rural Landscape zones. The proposed change will merely potentially allow eco-tourist facilities on smaller rural land holdings. In this case as well, the objectives of SEPP No 55 are achieved during the development application process.

There is no indication of site contamination in relation to **Issue 3**.

Issue 4 relates to permitting additional commercial land uses upon land that has (or had) vineyards, rose gardens, winery and associated onsite sewage treatment and disposal. Connected to Council's sewerage system is imminent. The site is not formally identified as contaminated land, but there is potential for contamination from pesticides and from onsite waste disposal. The land should still be suitable for the proposed commercial land uses.

Issue 5 relates to a change of zone from IN2 Light Industrial to B4 Mixed Use at Wauchope. One parcel is identified as Contamination Class B - contamination possible due to previous use for fuel storage and as a scrap yard. A building covers the site, and the extent of any contamination and of any remediation required can only be ascertained in conjunction with any future demolition. Another parcel, containing the former 'Sheathers Tractor Shop' building, is identified as both a heritage item and Contamination Class C - insufficient site history to know conclusively if the site is contaminated due to former fuel storage usage. It is anticipated that likely future land uses would not be precluded by any current contamination.

There is no indication of site contamination in relation to **Issues 6, 7 and 8**.

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

Where relevant the matters addressed by this planning proposal are consistent or have inconsequential inconsistencies with all applicable Ministerial Section 117 Directions.

(a) 1.1 Business and Industrial Zones:

The objectives of this direction are to:

- (a) encourage employment growth in suitable locations,
- (b) protect employment land in business and industrial zones, and
- (c) support the viability of identified strategic centres.

Issue 1 widens the range of permissible uses within a business zone.

Issue 4 widens the range of permissible uses within a tourism zone.

Issue 5 facilitates new commercial activity for a high profile site within Wauchope.

(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.

Issue 2 will permit eco-tourist facilities upon smaller rural holdings. This does not conflict with the objectives.

Issue 3 will permit excision from a rural parcel of an area of land which already has another land use.

Issue 8 will permit fragmentation of rural land, but this land is already identified as an urban release investigation area, and a manufactured home estate has already been approved for part of the land.

(c) **2.1 Environment Protection Zones**

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

Issue 6 proposes the removal of 6 m wide silvers of E2 Environmental Conservation zone within a residential area. The zone had been applied to support movement corridors for koalas. As explained in **Appendix A**, this outcome has not been achieved, and overriding State legislative controls make retention of the zones ineffective.

Issue 7 proposes to apply a R1 General Residential zone over land currently zoned E2 Environmental Conservation, based on a consent for residential subdivision that was granted around the time the zoning changed from 2(a1) Residential "A1" to Zone E2. Implementation of the consent will remove any environmentally sensitive character of the land.

(d) **2.3 Heritage Conservation**

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

Issue 5 proposes a zoning change for Heritage item I088, "Sheathers Tractor Shop" building, 87 High Street (corner Beechwood Road). The existing heritage provisions of the LEP will apply to any development proposal. The change of zoning will permit a wider ranges of uses compatible with retention of the heritage values.

(e) **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.

Clause 7.1 of the LEP currently requires an acid sulfate soils management plan for any proposed works (with some specified exemptions) that may impact on acid sulfate soils.

Issue 2 potentially applies to land containing acid sulfate soils. Appropriate assessment and action is triggered by clause 7.1.

Issue 3 applies to land containing acid sulfate soils. The proposed subdivision will not involve any works.

Issue 4 includes some land along the southern edge containing acid sulfate soils. Appropriate assessment and action is triggered by clause 7.1.

(f) **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.

Clauses 7.3 and 7.4 of the LEP currently contain provisions relating to development within the flood planning area, and to some forms of development of further land below the level of the probably maximum flood.

Issue 1 applies to some land zoned B5 Business Development including land in Port Macquarie which is within the flood planning area or further area affected by the probable maximum flood. Most of this land is already developed and appropriate assessment and action is triggered by clauses 7.3 and 7.4.

Issue 2 potentially applies to land which is within the flood planning area or further area affected by the probable maximum flood. Appropriate assessment and action is triggered by clauses 7.3 and 7.4.

Issue 3 contains some land which is within the area affected by the probable maximum flood. The LEP amendment relates to proposed subdivision to excise the existing men's shed land use - it is not in conflict with the objective of the Direction.

Issue 4 includes land which is within the flood planning area or further area affected by the probable maximum flood. Appropriate assessment and action is triggered by clauses 7.3 and 7.4.

Issue 8 contains part of Yippin Creek and tributaries, and it is possible that some of this is below the flood planning level, and hence is subject to clause 7.3 (notwithstanding it is not shown as 'Flood planning area' on the Flood Planning Map). The proposed LEP amendment relates to permitting a subdivision, and appropriate assessment and action is triggered by clause 7.3.

(g) 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.

The requirements of the Direction are summarised in the following table.

Requirement	Comments
Consult with Rural Fire Service following receipt of Gateway determination and prior to public consultation.	This can be done.
Have regard to <i>Planning for Bushfire Protection 2006</i> .	Done. Without specific development proposals, final assessment has to be carried out at development application stage.
Introduce controls that avoid placing inappropriate developments in hazardous areas	Existing controls and assessment framework are appropriate, and further controls not required.
Ensure that bushfire hazard reduction is not prohibited within the APZ.	This is already done by LEP clause 5.11.
Where development is proposed, comply with six fire safety design provisions, as appropriate.	There are no specific development proposals, so design provisions are premature.

Issue 1 applies to land within Zone B5 Business Development, which includes some land that is bushfire prone.

Issue 2 applies to rural land, and it is probable that specific development proposals that this amendment permits will be on land that is bushfire prone.

Issues 3 to 8 are site-specific, and all but **Issue 5** include land that is bushfire prone.

Except for Issue 2, the proposed change involves relatively little new development, as they relates to proposals for subdivision, change of use, or scope for a wider range of urban land uses.

In each case, the specifics of appropriate bushfire safety measures can only be determined in conjunction with a development application.

(h) 6.3 Site Specific Provisions:

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

The direction requires that the use become permitted in the zone, an alternate zone be used, or the use be permitted with no site specific requirements.

Issues 3, 4 and 8 are affected by this Direction.

Issue 3 relates to a proposed subdivision creating an undersized lot. The proposal is to change the minimum lot size applying to the relevant area, and so to permit the subdivision.

Issue 4 proposes to allow several additional uses upon the land zoned SP3 Tourism within the subject land, with no site specific requirements.

Issue 8 relates to subdivision of a rural land parcel based on its natural division by a creekline. No special requirements are proposed. The proposal is considered compatible with the identification of the land for future urban release.

C - Environmental, social and economic impact.

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

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

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

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

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

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

D - State and Commonwealth interests.**10. Is there adequate public infrastructure for the planning proposal?**

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

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

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

Issue No	Public Authorities
1, 2, 4, 5	Environment Protection Authority
1-4, 6-8	NSW Rural Fire Service
5	NSW Roads and Maritime Services
6	Office of Environment and Heritage

Part 4 – Mapping

A - Affected land

The location of the land directly affected by **Issues 3 to 8** (as described in **Appendix A**) of the planning proposal are shown on the maps on the following pages. The land affected by **Issues 1 and 2** is not shown, as those Issues apply on a Land Use Zone basis.

Based on the grid used for the LEP Maps, the relevant sheet numbers are:

Sheet No	Issue No - Appendix A
10B	5 and 8
013C	4
013D	6
014	3
014A	7

To view the (current) legal LEP maps, go to the NSW Legislation website - <http://www.legislation.nsw.gov.au/mapindex?type=epi&year=2011&no=84>.

B - Draft LEP maps

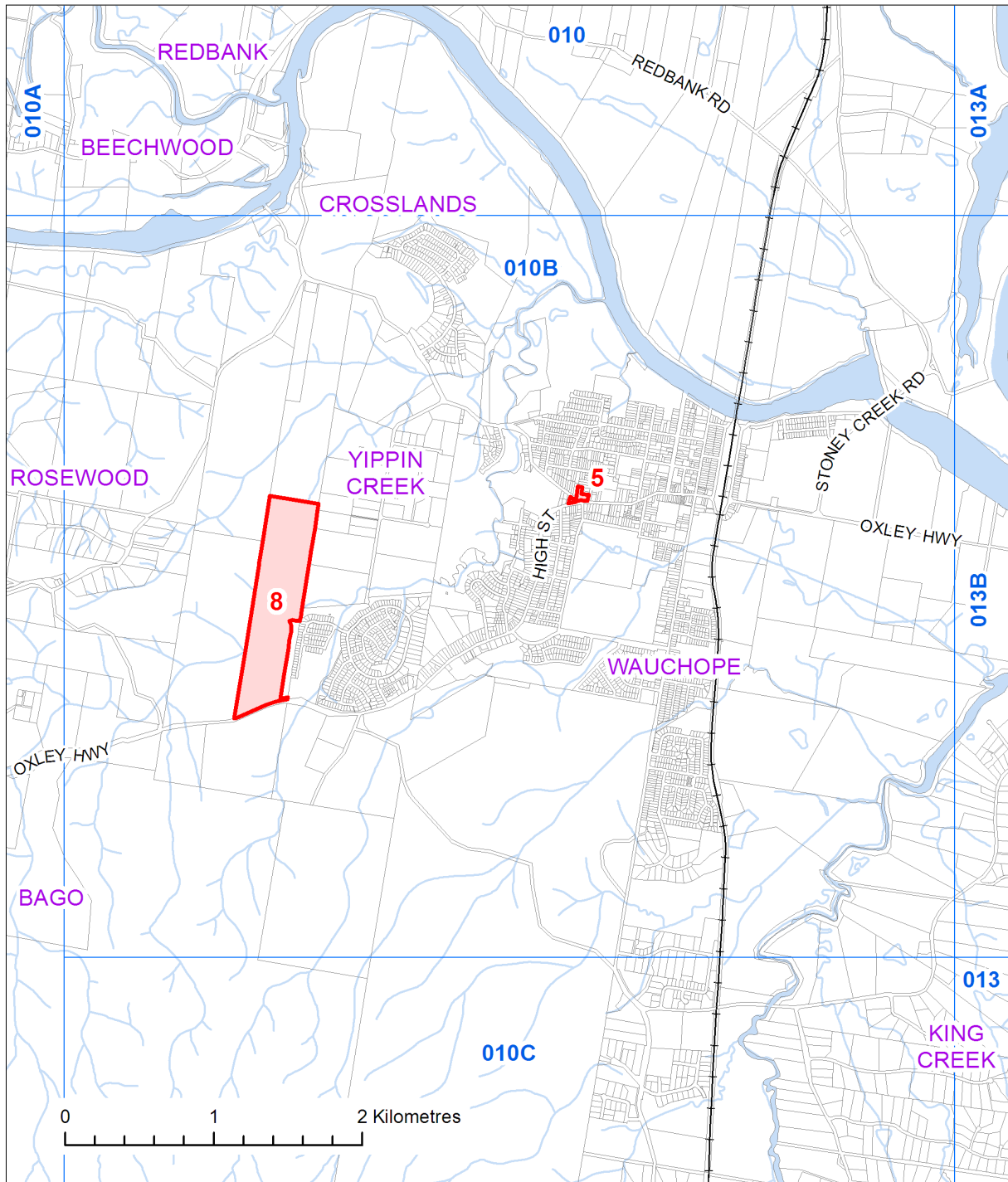
Issues 3 to 8 will require changes to the LEP map sheets as found on the NSW Legislation website. Some map sheets will be revoked, and new map sheets adopted - an indicative list is provided in Part B of **Appendix B**.

Details of the changes are easier to view in the map extracts in **Appendix A**, and the new map sheets have not been drafted at this stage.

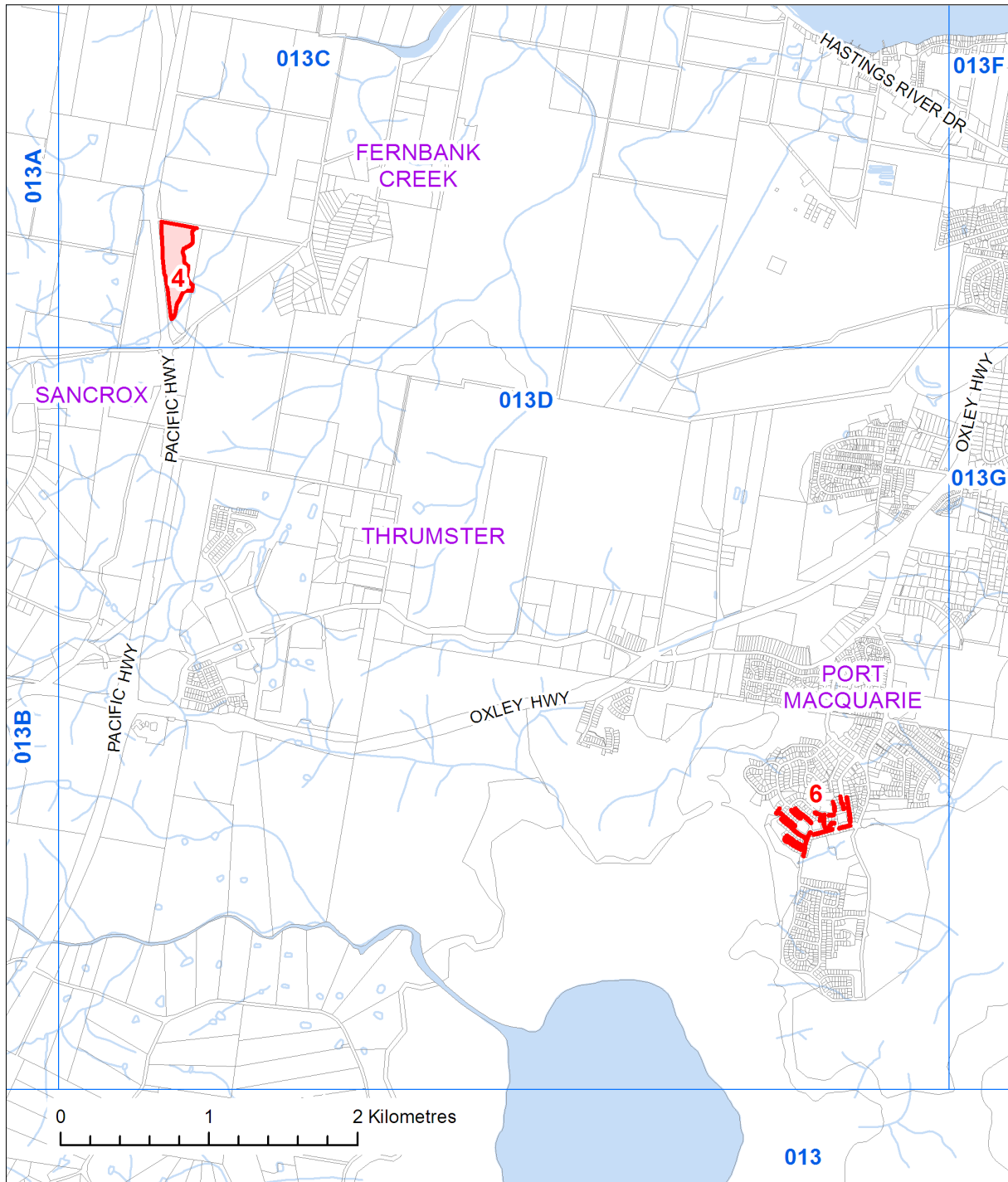
The Department of Planning & Environment is introducing a new system for the statutory reference set of LEP maps, using internet web-based mapping service.

As this Planning Proposal approaches finalisation, the mapping will be prepared in the appropriate form required.

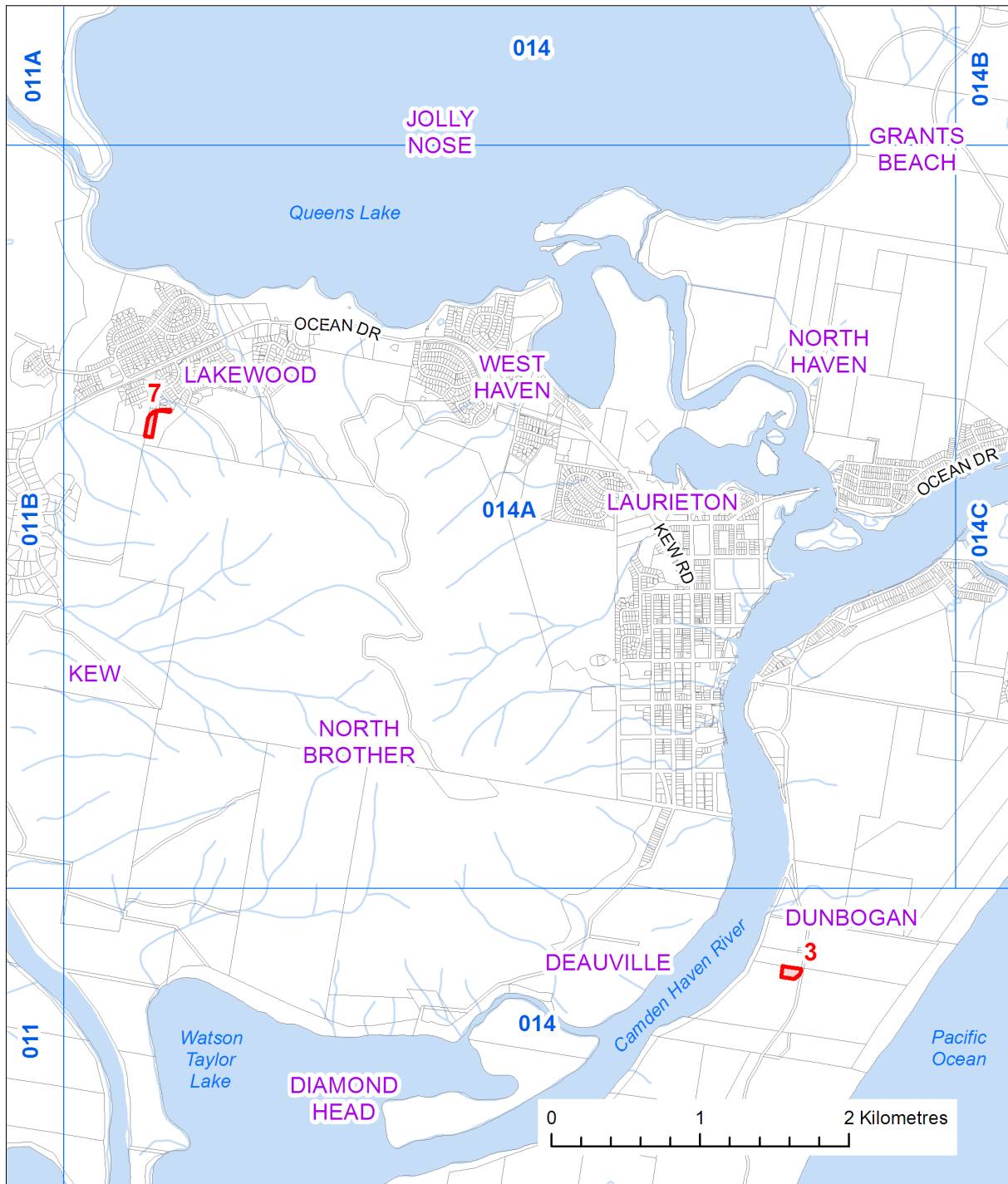
Map Sheet 010B - Issues 5 and 8



Map Sheet 013C - Issue 4, and Map Sheet 013D - Issue 6



Map Sheet 014 - Issue 3, and Map Sheet 014A - Issue 7



Part 5 – Community Consultation

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

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

On this basis an appropriate public exhibition period is a minimum of 14 days.

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 6 – Project Timeline

This project timeline is based on anticipated dates and timeframes, though there can be unexpected delays. It is assumed that Council will 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											
Anticipated dates	J	F	M	A	M	J	J	A	S	O	N	D
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								
Commencement and completion dates for public exhibition period					X							
Dates for public hearing (if required)						X						
Timeframe for consideration of submissions						X						
Timeframe for the consideration of a proposal post exhibition							X					
Date of submission to the department to finalise the LEP							?					
Date Council will make the plan (if delegated)								X				
Date Council will forward to the department for notification.								X				

Appendix A – Details of Issues being addressed

Following are details of the 8 separate issues identified for amendment in this Planning Proposal, as reported to Council on 21 October 2015. (The report to Council included an Issue 5 which was not supported - Issues 5 to 8 here were Issues 6 to 9 in that report.)

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

- Issue 1: Zone B5 Business Development - allow Veterinary hospitals
- Issue 2: Clause 7.14 Eco-tourist facilities - additional provisions
- Issue 3: Laurieton Men's Shed, Dunbogan
- Issue 4: Additional permitted uses - Cassegrain winery
- Issue 5: Land zoned IN2, corner of High Street and Beechwood Road, Wauchope
- Issue 6: E2 zoning slivers within Mill Hill subdivisions
- Issue 7: Lot 123 DP 1148180, Bronzewing Terrace, Lakewood
- Issue 8: Subdivision of Oxley Club land, Oxley Highway Wauchope

Issue 1: Zone B5 Business Development - allow Veterinary hospitals

Presently, veterinary hospitals are permissible with consent in zones:

- RU5 Village
- R5 Large Lot Residential
- B1 Neighbourhood Centre
- B2 Local Centre
- B4 Mixed Use
- IN1 General Industrial
- IN2 Light Industrial

A veterinary hospital is defined as a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

Zone B5 Business Development is used:

- in Port Macquarie at Bellbowrie, Hibbard, Lake Road, and the corner of Oxley Highway and John Oxley Drive, and
- in the Thrumster Town Centre.

Given the type of development typically undertaken in B5 zones, it is recommended that veterinary hospitals also be permitted with consent in the B5 zone. This will involve removing veterinary hospitals from 4 Prohibited under Zone B5 in the Land Use Table.

Proposal: that the Land Use Table for Zone B5 Business Development in LEP 2011 be amended to permit veterinary hospitals with consent.

Issue 2: Clause 7.14 Eco-tourist facilities - additional provisions

LEP 2011 commenced prior to introduction of standard provisions relating to eco-tourist facilities, and initially eco-tourist facilities were prohibited within every land use zone. When eco-tourist facilities were made permissible with consent within several zones, Council added a local clause to ensure that eco-tourist facilities have an appropriate scale and do not compromise the future extraction of significant mineral resources.

One provision restricted the area of the subject land to at least the minimum lot size specified for that land by the Lot Size Map. This was to preclude the development of eco-tourist facilities on rural land which was undersize for dwelling houses.

This also prevents eco-tourist facilities upon rural lots which may be under the specified minimum lot size, but for historical reasons currently has a dwelling house or upon which a dwelling house may be permissible.

Following review of the operation of the eco-tourist facilities LEP provisions, at its meeting on 17 June 2015 Council resolved:

That Council incorporate draft provisions to permit eco-tourism on land where a dwelling is permissible or where a dwelling currently exists on an undersized lot in a rural zone, in the next administrative review of the LEP.

Note that any relevant development application will still be subject to assessment under section 79C of the *Environmental Planning and Assessment Act 1979*, including consideration of clauses 5.13 and 7.14 of LEP 2011.

Proposal: that clause 7.14 of the LEP be amended to permit eco-tourism on land where a dwelling is permissible or where a dwelling currently exists on an undersized lot in a rural zone.

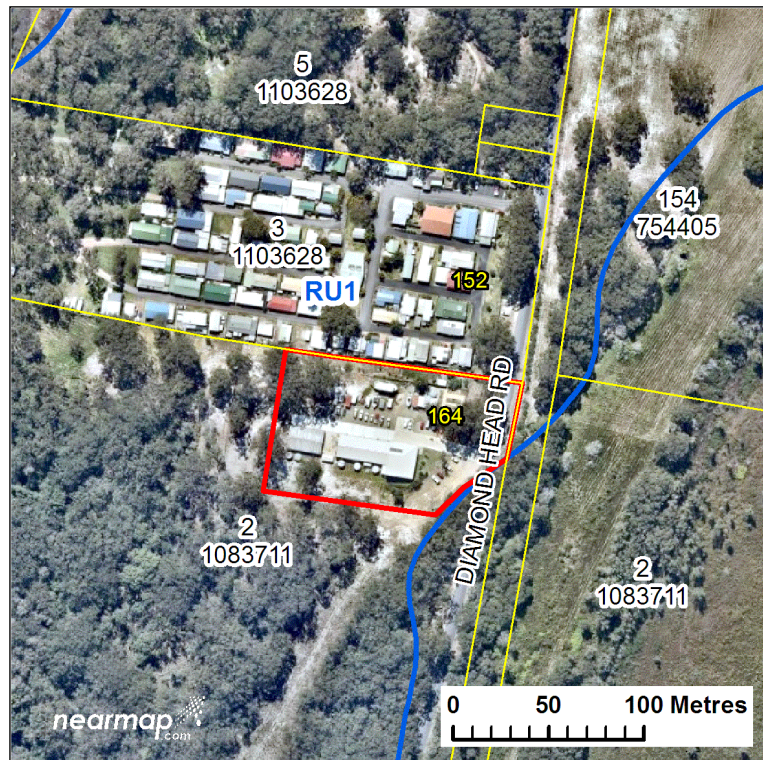
Issue 3: Laurieton Men's Shed, Dunbogan

The Men's Shed was constructed on part of Lot 2 DP 1083711, Diamond Head Road, being land leased from Mr Ross Hanslow. The Men's Shed organisation now wish to have ownership over the leased area (8661 sq m) of Lot 2 that contains the shed. For subdivision, the minimum lot size required is 40 Ha, which can't be achieved for a 2 lot subdivision of the 48 Ha Lot 2.

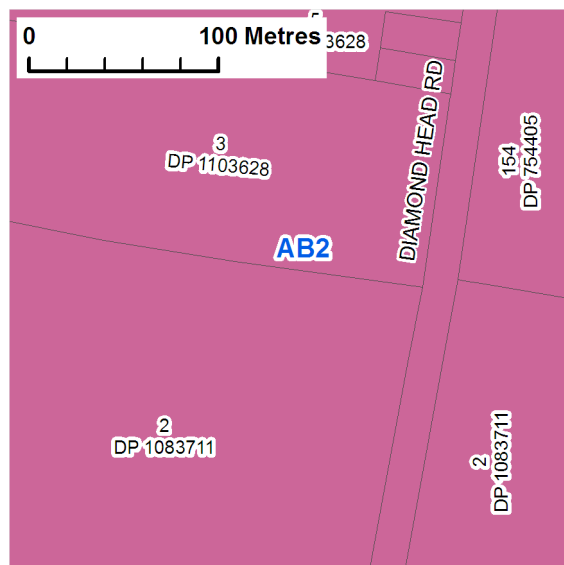
It is proposed that the LEP be amended to permit subdivision to excise the area containing the Men's Shed from the balance of Lot 2.

This is a site specific amendment that is being considered to support and existing community facility. It is considered that this approach will not create an undesirable precedent for subdivision creating undersized rural lots.

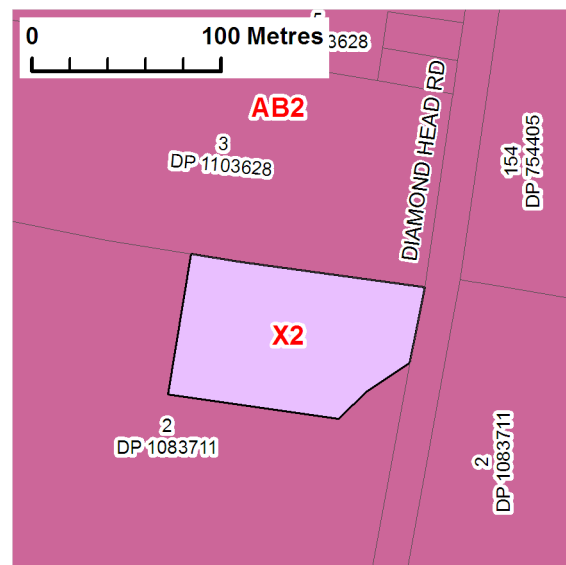
It is proposed to apply a minimum lot size of 8000 sq m to the relevant area of Lot 2 on the Lot Size Map. The associated mapping change is shown below.



Lot Size Map: Current



Proposed

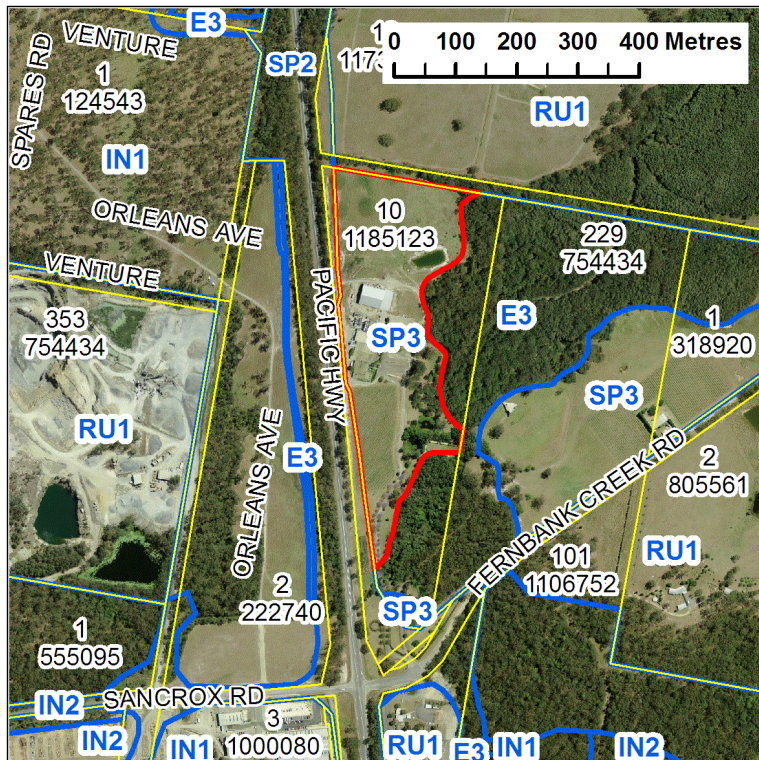


Minimum Lot Size:

X2	8000 square metres
AB2	40 hectares

Proposal: that the Lot Size Map in LEP 2011 be amended to apply a minimum lot size of 8000 sq m for the leased area of the Laurieton Men's' Shed within Lot 2 DP 1083711, Diamond Head Road, Dunbogan.

Issue 4: Additional permitted uses - Cassegrain winery



In November 2014 three lots on Fernbank Creek Road (including the winery) were each rezoned to part SP3 Tourist and part E3 Environmental Management. The land within Zone No E3 is largely to be retained in a natural state.

The western lot contains the winery, and there is interest in an associated brewery on this lot, which is not a permissible use in the SP3 zone.

The operation of a small scale brewery in conjunction with the existing winery is considered to have merit as part of the focus on the existing development evolving into a tourism precinct.

The brewery is being considered by Council as a 'Light Industry' and is proposed as a specific additional permitted uses in this location. While in the vicinity there is land zoned for industry, for this site it is proposed to restrict this to 'light industry (comprising a brewery)'.

The SP3 zone doesn't permit the current cellar door premises (although it can operate under 'existing use' rights), and it is appropriate to also make this explicitly permissible with consent. To provide some flexibility, it is also proposed to include light industry as a use permissible with consent. Accordingly, it is proposed to make agricultural produce industry, cellar door premises, and light industry (comprising a brewery) permissible with consent as additional permitted uses on the land zoned SP3 within Lot 10 DP 1185123. This would involve:

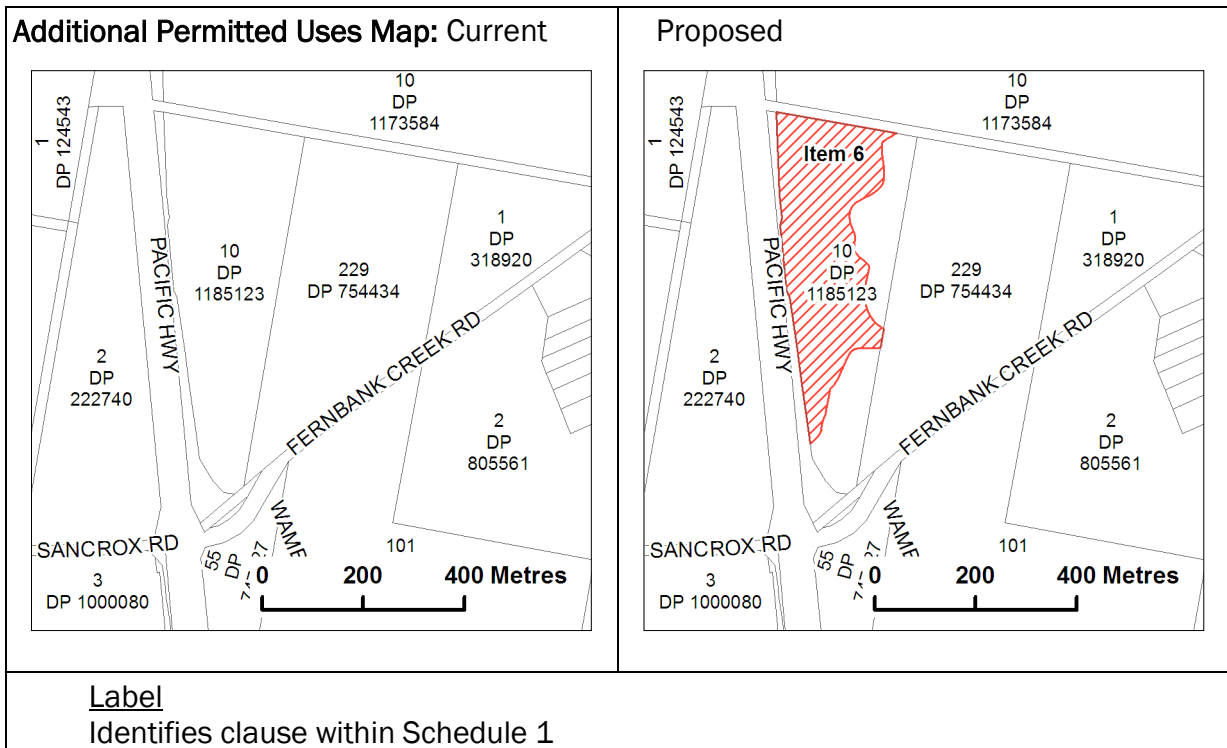
(a) adding to Schedule 1 Additional Permitted Uses words similar to:

6 Use of certain land at 764 Fernbank Creek Road, Fernbank Creek

- (1) This clause applies to land at 764 Fernbank Creek Road (corner Pacific Highway), Fernbank Creek, being that part of Lot 10, DP 1185123 zoned SP3 Tourist, as shown as "Item 6" on the Additional Permitted Uses Map.
- (2) Development for the purposes of agricultural produce industry, cellar door premises, and light industry (comprising a brewery) permissible are permitted with development consent.

and

(b) amending the Additional Permitted Uses Map.



Proposal: that the LEP be amended to make agricultural produce industry, cellar door premises, and light industry (comprising a brewery) permissible with consent as additional permitted uses on the land zoned SP3 (excluding the small area zoned SP3 in the southern corner) within Lot 10 DP 1185123, Fernbank Creek Road, Fernbank Creek.

Issue 5: Land zoned IN2, corner of High Street and Beechwood Road, Wauchope

On the corner of High Street and Beechwood Road, Wauchope a group of properties are zoned IN2 Light Industrial, based on historic land uses. As Wauchope grows, this location is transitioning to retailing uses, and it would be appropriate to facilitate such business redevelopment - as long as it is compatible with traffic management at that intersection.

A B4 Mixed Use zone is proposed - which permits a range of commercial uses with consent, including vehicle sales and hire. This zone does not permit new vehicle repair stations, but existing use planning provisions allow ongoing use and modifications for the existing Wauchope Motors business.



The properties are:

- Lot 4 DP 511245, 17 Graham St
- Lot 2 DP 1182120, 81 High St
- Lot 1 DP 1182120, 83 High St
- Lot 1 DP 745090, 85 High St
- Lot 75 Sec B DP 979174, 85 High St
- Lot 102 DP 1048116, 87 High St.

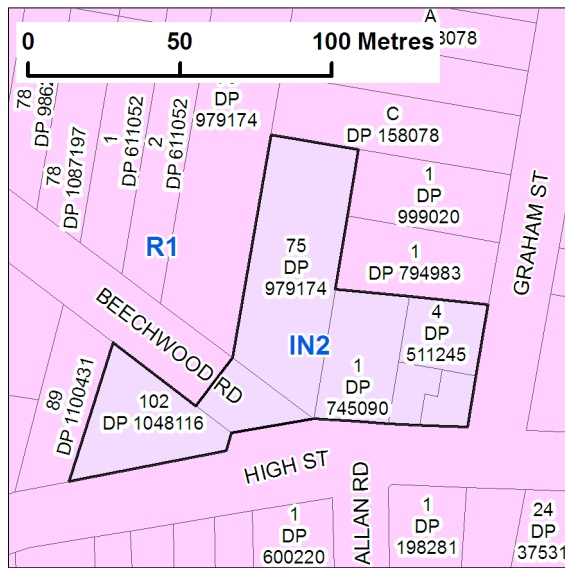
The land uses permitted with consent within Zone B4 Mixed Use are:

Boarding houses; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; High technology industries; Home industries; Hostels; Hotel or motel accommodation; Information and education facilities; Medical centres; Passenger transport facilities; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Shop top housing; and Any other development not specified in item 2 or 4 of the LEP Land Use Table for Zone No B4.

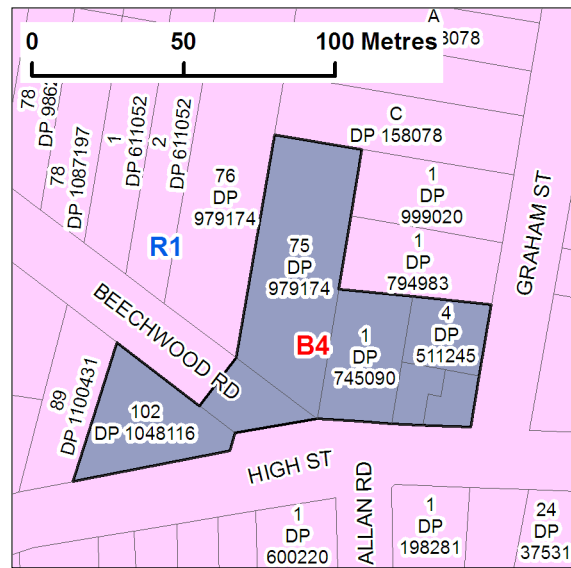
There is no need to amend the associated LEP Maps in relation to these parcels:

- Lot Size Map - 1000 sq m minimum lot size
- Floor Space Ratio Map - no restriction
- Height of Buildings Map - 8.5 m maximum

Land Zoning: Current



Proposed

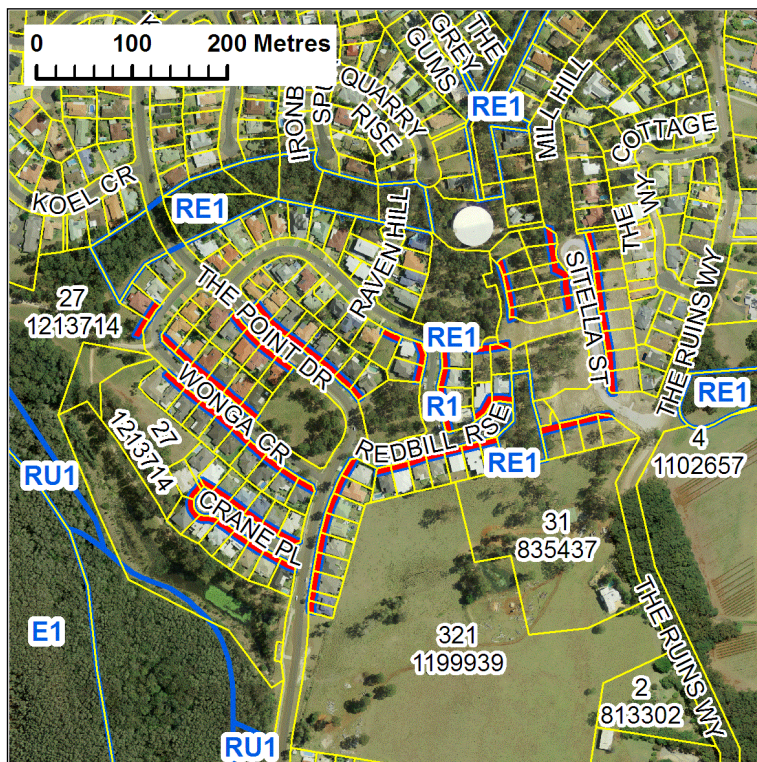


Zone Codes
B4 Mixed Use

IN2 Light Industrial
R1 General Residential

Proposal: that the Land Zoning Map in LEP 2011 be amended by rezoning to Zone B4 Mixed Use the land currently zoned IN2, at the corner of High Street and Beechwood Road, Wauchope.

Issue 6: E2 zoning slivers within Mill Hill subdivisions



Within the 'Mill Hill' portion of Innes Peninsula, Port Macquarie, is a residential subdivision that includes 6 m wide strips of E2 Environmental Conservation zone along the front building setback of some areas, as shown by the red lines on the adjoining map.

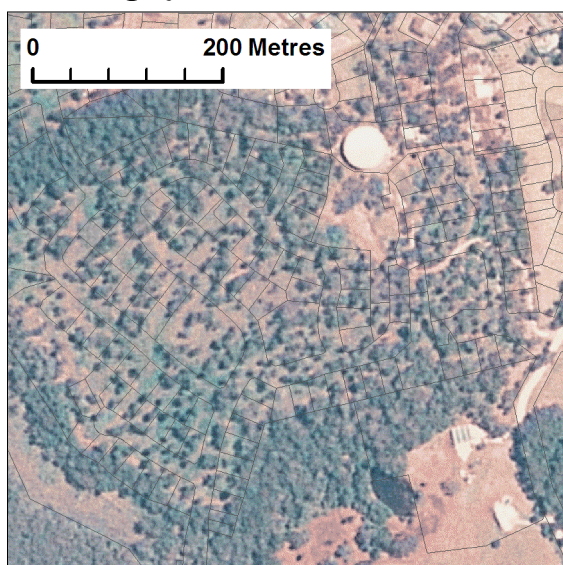
Consent in July 2000 for subdivision (DA1999-775) included a condition that the development be completed a Koala Plan of Management [KPoM] - *Koala Management Plan Mill Hill, Port Macquarie*, by EcoPro in 1999.

The land was already zoned residential when SEPP No 44 - *Koala Habitat Protection*

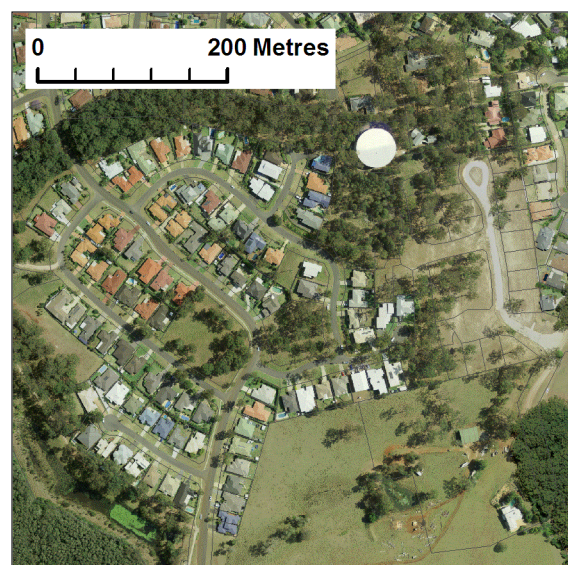
commenced, and assessment of the development tried to permit residential subdivision which still satisfied the objectives of the SEPP. It was intended to retain and enhance koala food trees along the local streets.

The KPoM was approved by Council and the Department of Urban Affairs and Planning (now known as Department of Planning & Environment). To enhance the outcomes it was also decided to protect koala habitat and movement corridors by amending the LEP to apply the 6 m wide strips of E2 Environmental Conservation zone along the frontages of most of the properties. Restrictions on the titles were registered for the same purpose.

Aerial imagery: 1997



2012



This approach has not been successful for several reasons, including:

- siting of buildings close to the E2 zone, with Codes SEPP and bushfire regulations overruling the LEP,
- driveway construction that led to removal of existing trees,
- disregard for the zoning restriction and the restriction on title.

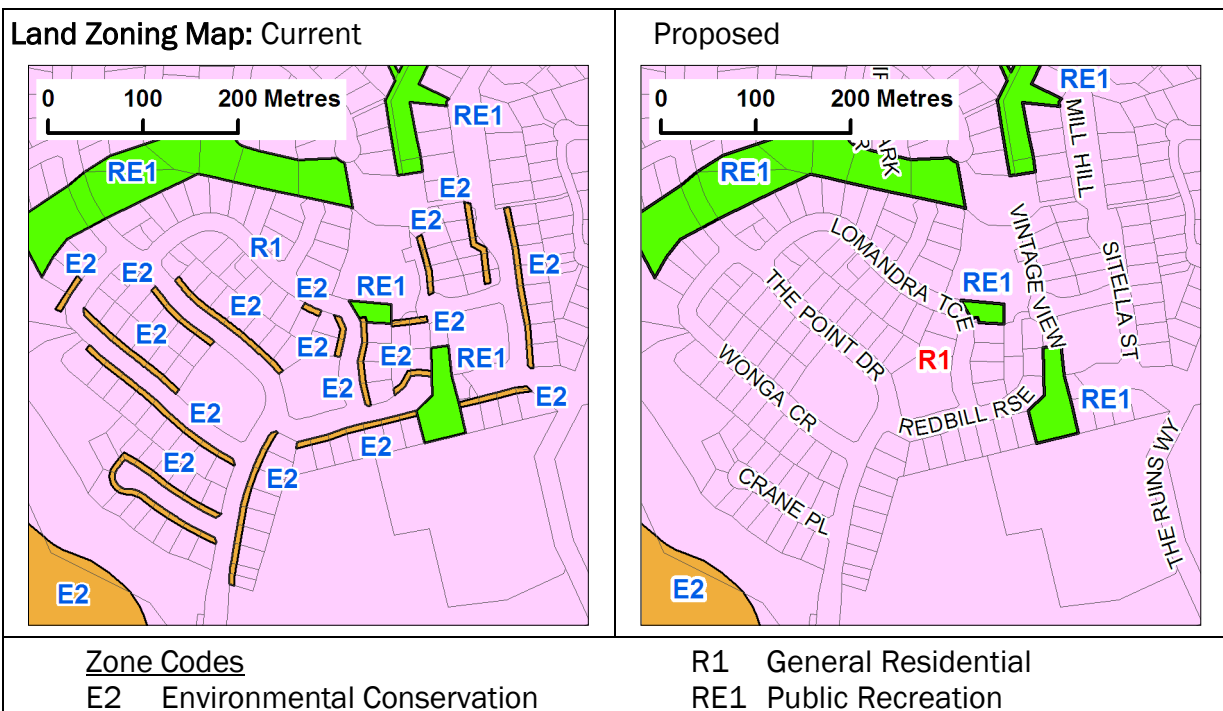
The corridors of street trees have been compromised by tree removal. The aerial imagery above shows both how now there are minimal trees within property frontages and how the subdivision area now doesn't provide much koala habitat. (Note there had been a bushfire a few years prior to 1997 aerial photo.)

This is an example of the difficulty in integrating housing into known areas of koala habitat. Council's recent approach to management of koala habitat has been to consolidate retained habitat areas separate to residential development. A comprehensive KPoM for Coastal Areas is also under preparation by Council.

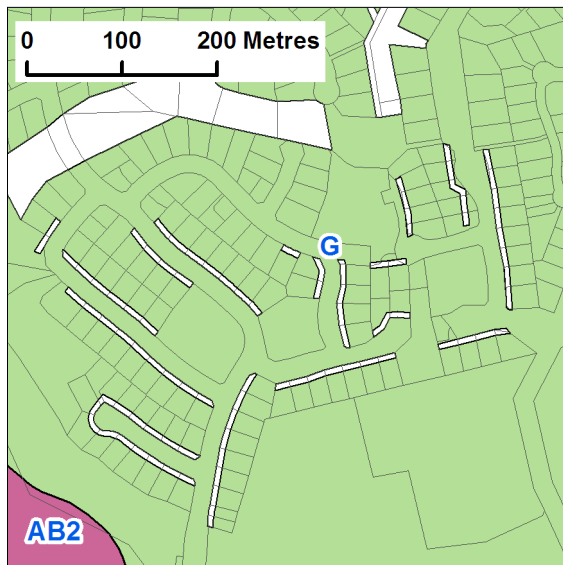
The 70 affected properties cover:

- 1-16 Crane Place,
- 16-27 Lomandra Terrace,
- 4-16 Redbill Rise,
- 43, 45, 47, 49, 51, 53-77B The Point Drive,
- 5-32 Wonga Crescent, and
- undeveloped land owned by Charley Brothers Pty Ltd.

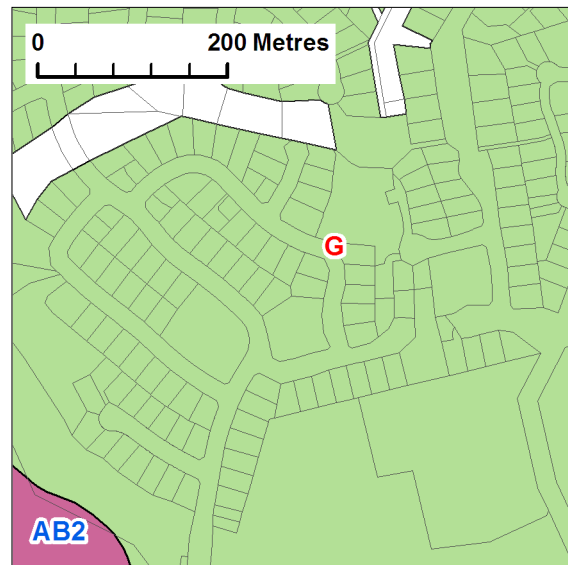
Little is achieved by retaining the E2 zoning, and it would be simpler for the landowners and Council if the split planning controls were removed from the properties. This would involve changes to the four map series shown below. The properties will remain subject to clause 7.7 Koala habitat in the LEP - where development consent is required, the consent authority is to be satisfied the development is consistent with the relevant provisions of the adopted KPoM.



Lot Size Map: Current



Proposed

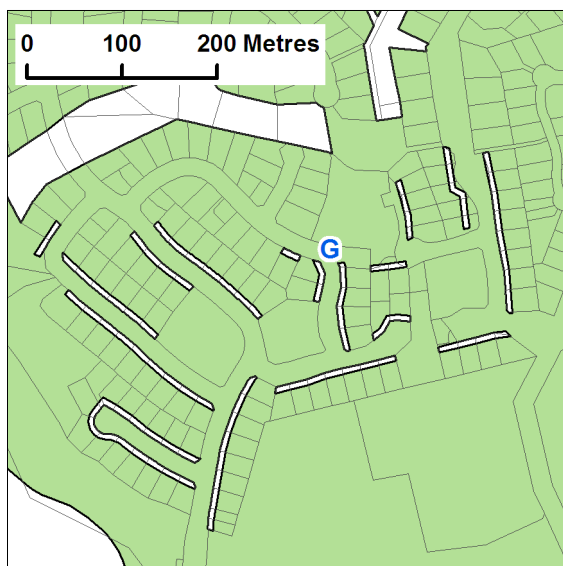


Minimum Lot Size

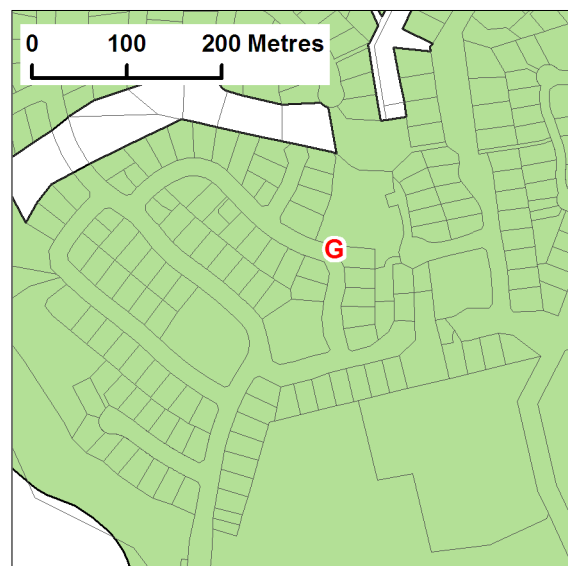
G 450 sq m

AB2 40 Ha

Floor Space Ratio Map: Current

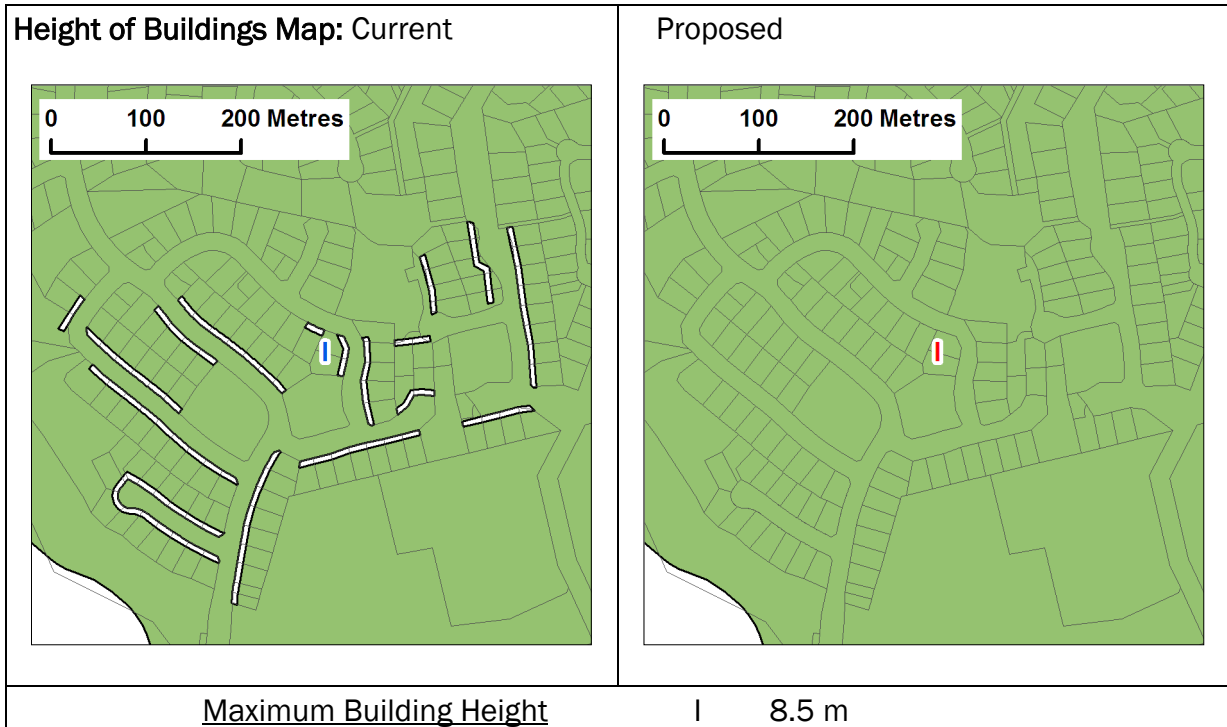


Proposed



Maximum Floor Space Ratio

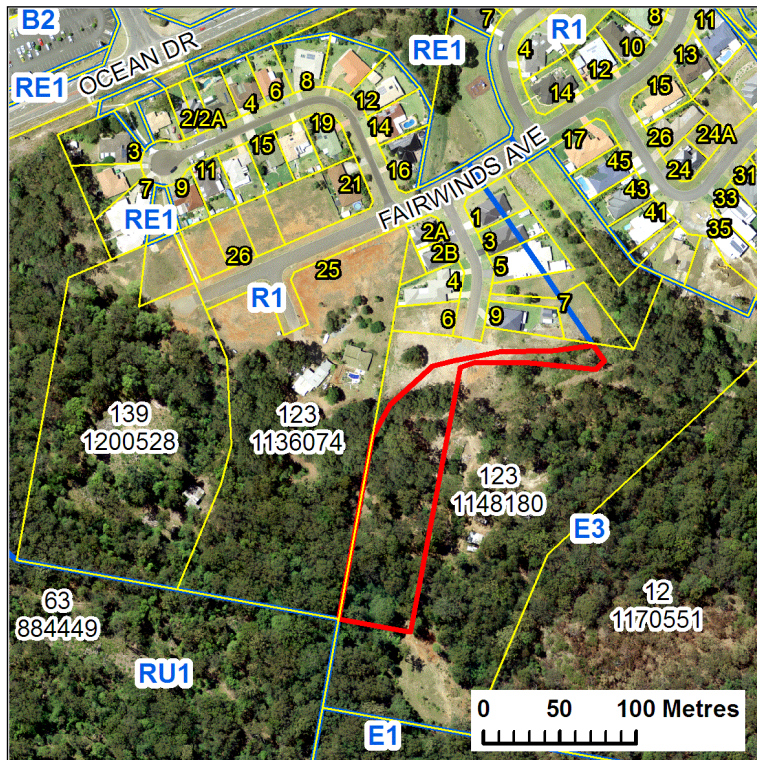
G 0.65:1



Proposal: that LEP 2011 be amended in relation to the thin strips of land zoned E2 within the Mill Hill subdivisions, Innes Peninsula, Port Macquarie:

- a) on the Land Zoning Map - apply Zone R1 General Residential,
- b) on the Lot Size Map - apply G - 450 sq m minimum lot size,
- c) on the Floor Space Ratio Map - apply G - 0.65:1, and
- d) on the Height of Buildings Map - apply I - 8.5 m.

Issue 7: Lot 123 DP 1148180, Bronzewing Terrace, Lakewood



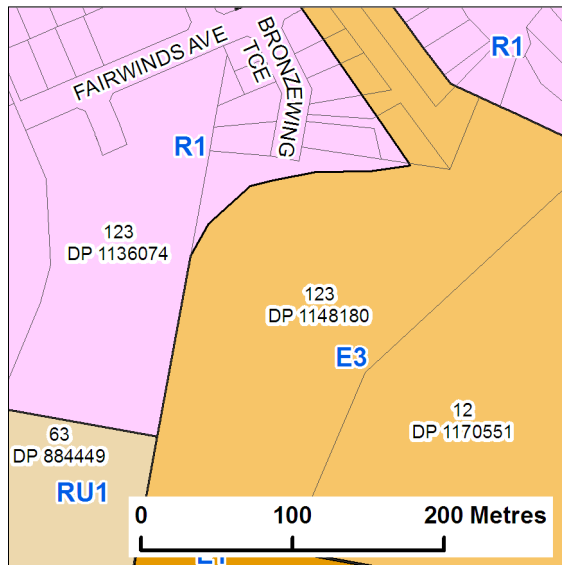
Lot 123 was part of Development Application 2009-0215, for subdivision of land at Lakewood, for which consent was granted in October 2012. During the period it was being processed, LEP 2011 was being prepared and finalised. Given problems with providing adequate water pressure above 30m AHD at Lakewood, the LEP repositioned the boundary of the residential zone to that contour. The relevant land is currently zoned E3 Environmental Management. Consent for the DA was granted on the basis that LEP 2011 was not in force, as provided for by clause 1.8A.

The applicant is seeking to carry out the approved development, which will create residential lots which are subject to rural planning controls.

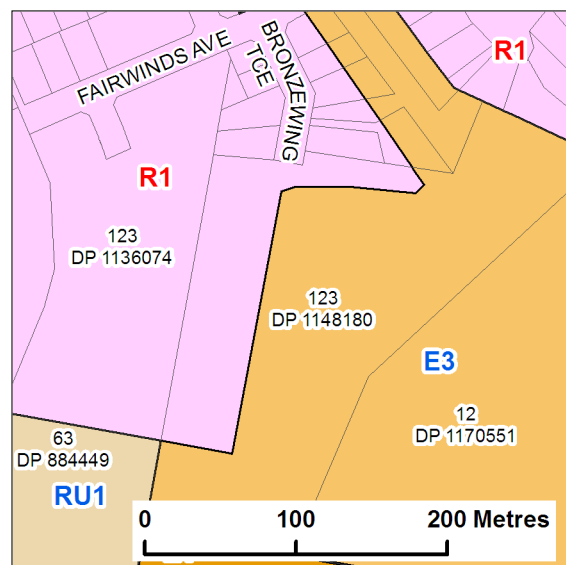
Given that the development is proposed to be completed, it is appropriate to reinstate the previous boundary for the residential zone (as in *Hastings LEP 2001*), so that the new lots have the appropriate zone. This would involve changes, as shown below, to:

- the Land Zoning Map
- the Lot Size Map
- the Floor Space Ratio Map
- the Height of Buildings Map.

Land Zoning Map: Current



Proposed



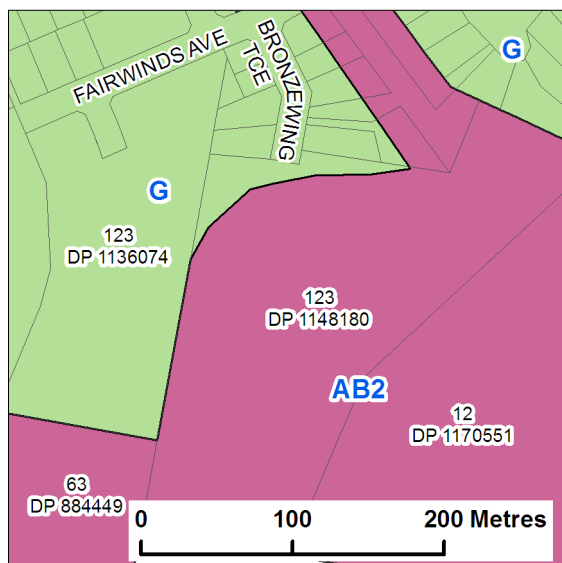
Zone Codes

E3 Environmental Management

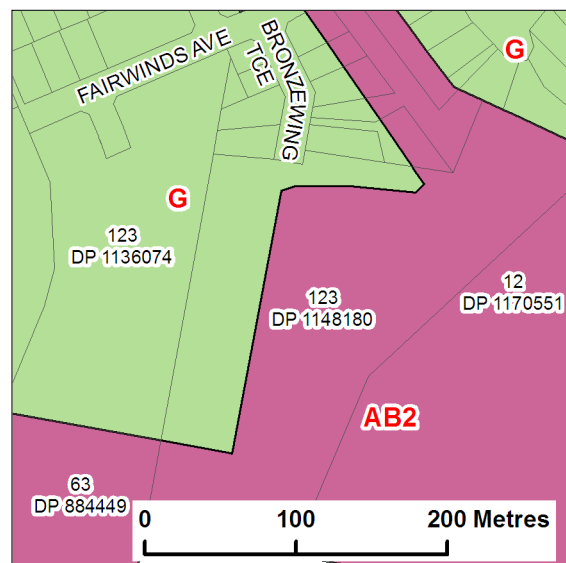
R1 General Residential

RU1 Primary Production

Lot Size Map: Current



Proposed

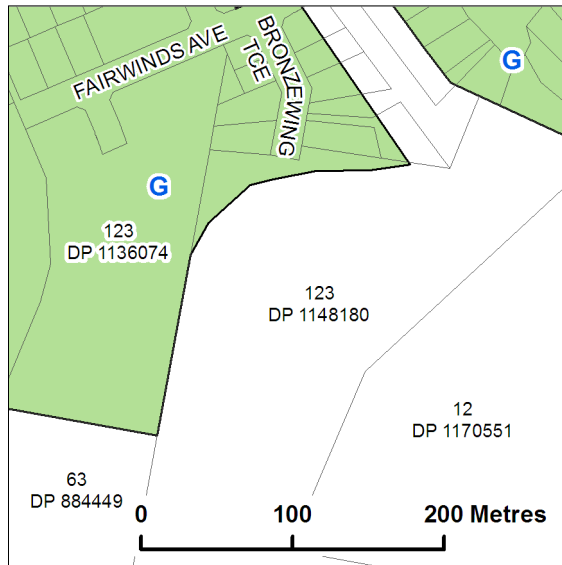


Minimum Lot Size

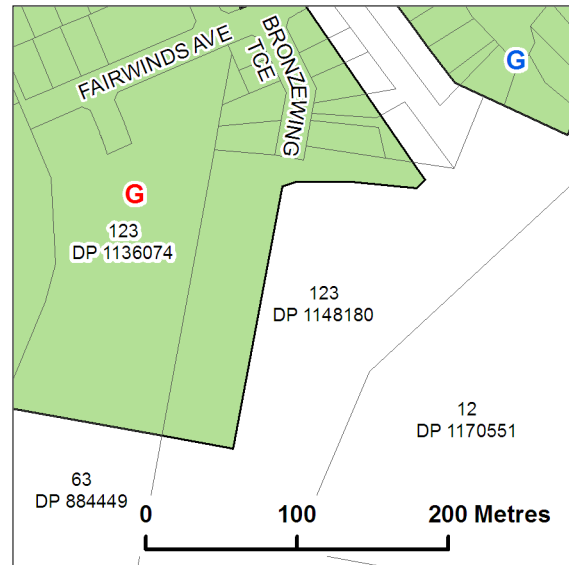
G 450 sq m

AB2 40 Ha

Floor Space Ratio Map: Current



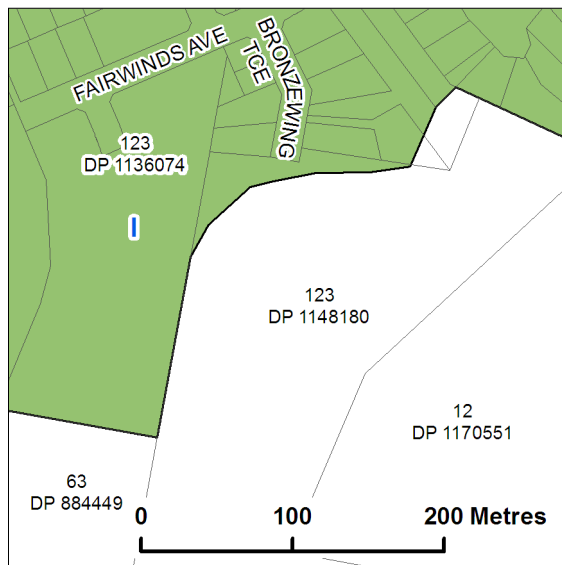
Proposed



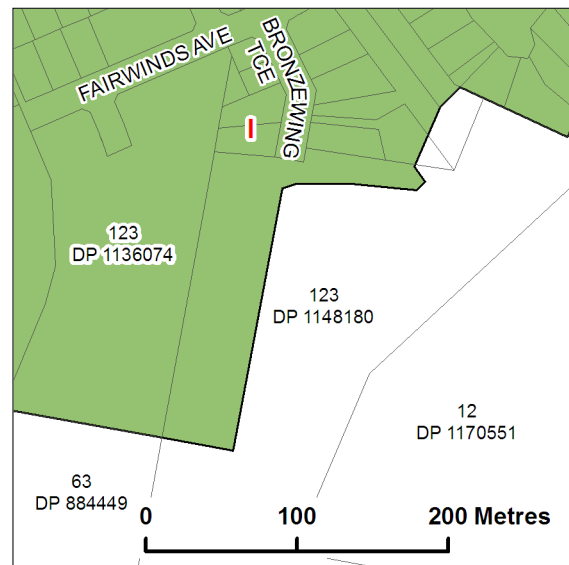
Maximum Floor Space Ratio

G 0.65:1

Height of Buildings Map: Current



Proposed



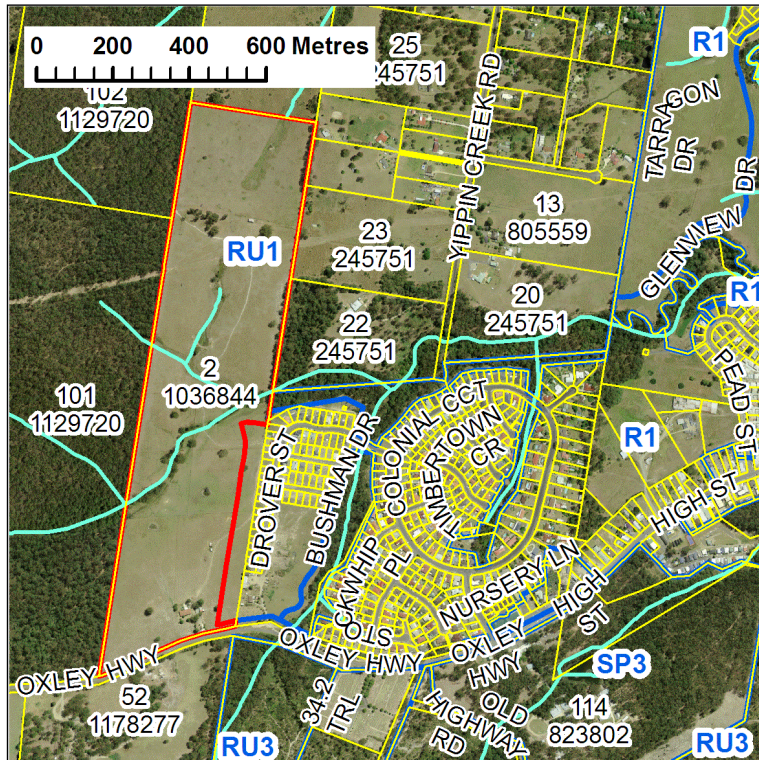
Maximum Building Height

I 8.5 m

Proposal: that LEP 2011 be amended in relation to part Lot 123 DP 1148180, Bronzewing Terrace, Lakewood, as shown on the map extract:

- on the Land Zoning Map - apply Zone R1 General Residential,
- on the Lot Size Map - apply G - 450 sq m minimum lot size,
- on the Floor Space Ratio Map - apply G - 0.65:1, and
- on the Height of Buildings Map - apply I - 8.5 m.

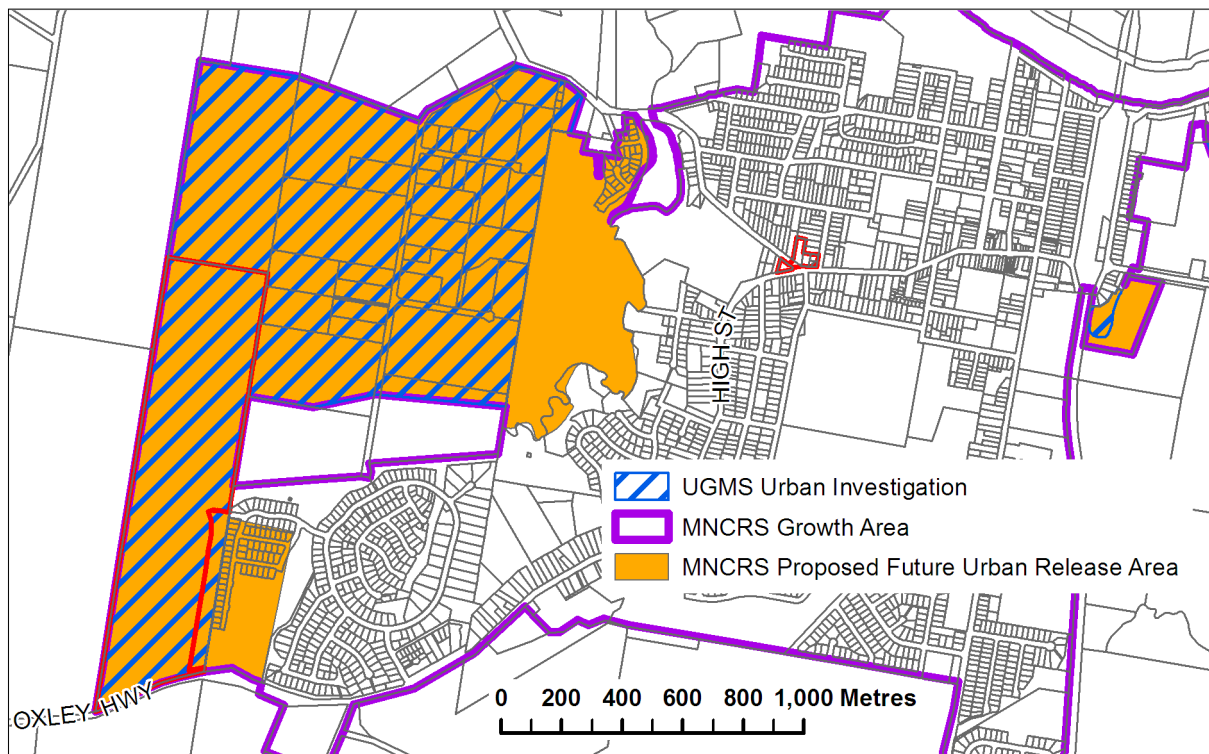
Issue 8: Subdivision of Oxley Club land, Oxley Highway Wauchope



Lot 2 DP1036844 Oxley Highway is 47 Ha in area, and is bisected by Yippin Creek. The property is identified in Council's *Urban Growth Management Strategy 2011-2031* as an Urban Investigation area, and work has commenced on a Structure Plan for the future urban release. Currently it is all zoned RU1 Primary Production other than a strip zoned R1 General Residential along the eastern boundary south of Yippin Creek.

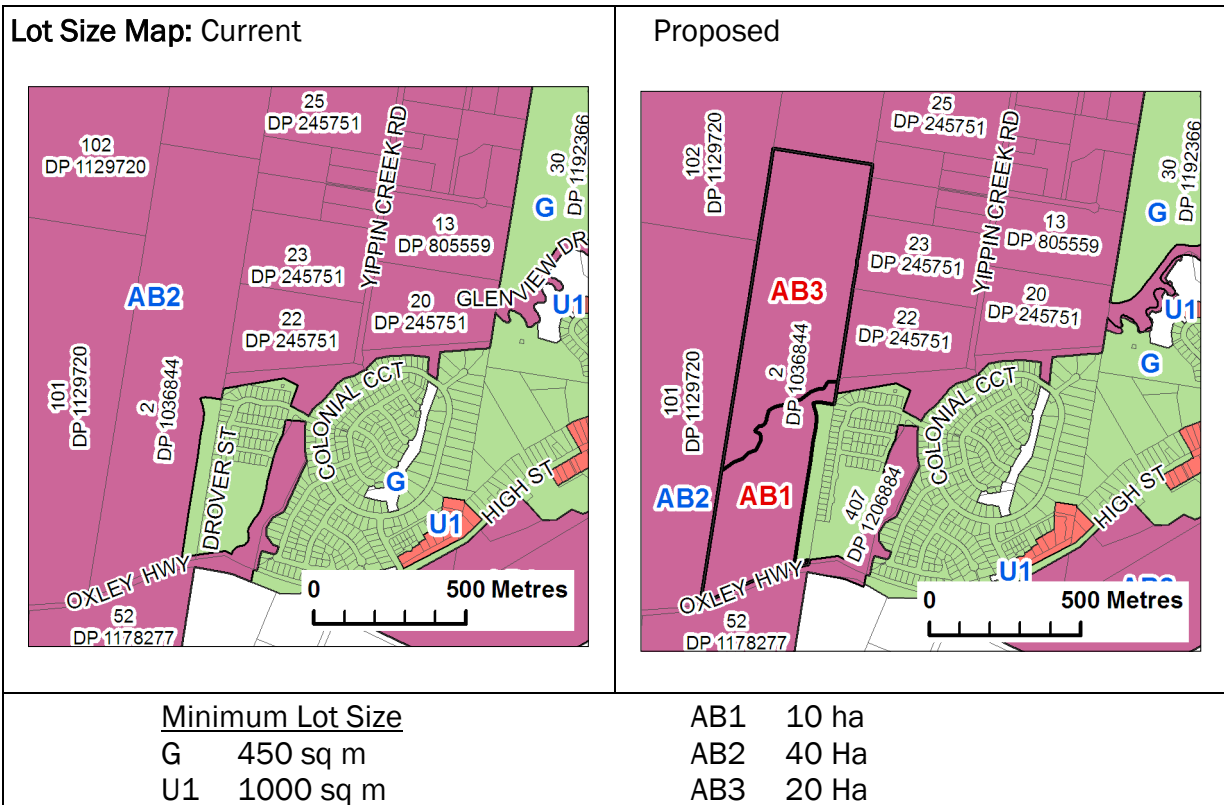
Consent has been granted for a manufactured home estate on the balance of the southern portion. For ease of management of the different

development areas within the lot, it has been requested that Council facilitate subdivision of the property roughly along the creekline, meaning lots of appropriately 18 ha (including the area zoned R1) and 29 ha.



It is proposed that for that part of the lot south of the creek and zoned RU1 the minimum lot size be 10 ha, and for that part of the lot north of the creek the minimum lot size be 20 ha. Note that a minimum of 20 ha is a new category in the Lot Size Map, and will have a code of 'AB3', as the code 'AB2' is used for the 40 ha minimum.

There is no need to amend any other LEP maps at this time.



Proposal: that the Lot Size Map for LEP 2011 be amended, in relation to that part of Lot 2 DP 1036844, Oxley Highway Port Macquarie zoned RU1 - to apply a minimum lot size of 10 ha to the area south of Yippin Creek, and a minimum of 20 ha north of Yippin Creek.

Appendix B – List of proposed amendments

A. Changes to text

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

Provision	Changes	Appendix A - Issue
Land Use Table: Zone No B5	Omit “veterinary hospitals;” from item 4 of the matter relating to Zone B5 Business Development.	1
Clause 7.14	Omit subclause 7.14 (2)(a) and insert instead: (a) the subject land contains a lawfully erected dwelling house, or a dwelling house is permissible with consent under clause 4.2A, and	2
Schedule 1	Insert at the end of the schedule: 6 Use of certain land at 764 Fernbank Creek Road, Fernbank Creek (1) This clause applies to land at 764 Fernbank Creek Road (corner Pacific Highway), Fernbank Creek, being that part of Lot 10, DP 1185123 zoned SP3 Tourist, as shown as “Item 6” on the Additional Permitted Uses Map. (2) Development for the purposes of agricultural produce industry, cellar door premises, and light industry (comprising a brewery) are permitted with development consent.	4

B. Changes to Map Sheets

Refer to **Part 4** - the following relates to the current LEP map process that is being superseded.

The following map sheets are revoked:

Map sheets	Map sheet identifier	Appendix A - Issue
Land Zoning Map		
LZN_010B	6380_COM_LZN_010B_020_20141216	5
LZN_013D	6380_COM_LZN_013D_020_20150317	6
LZN_14A	6380_COM_LZN_014A_020_20110124	7
Lot Size Map		
LSZ_010B	6380_COM_LSZ_010B_020_20140304	8
LSZ_013D	6380_COM_LSZ_013D_020_20150317	6
LSZ_014	6380_COM_LSZ_014_080_20140305	3
LSZ_014A	6380_COM_LSZ_014A_020_20141126	7
Floor Space Ratio Map		
FSR_013D	6380_COM_FSR_013D_020_20140325	6
FR_014A	6380_COM_FSR_014A_020_20111110	7
Height of Buildings Map		
HOB_013D	6380_COM_HOB_013D_020_20110525	6
HOB_14A	6380_COM_HOB_014A_020_20110523	7

The following map sheets are adopted:

Map sheets	Map sheet identifier	Appendix A - Issue
Land Zoning Map		
LZN_010B	6380_COM_LZN_010B_020_2016_	5
LZN_013D	6380_COM_LZN_013D_020_2016_	6
LZN_14A	6380_COM_LZN_014A_020_2016_	7
Lot Size Map		
LSZ_010B	6380_COM_LSZ_010B_020_2016_	8
LSZ_013D	6380_COM_LSZ_013D_020_2016_	6
LSZ_014	6380_COM_LSZ_014_080_2016_	3
LSZ_014A	6380_COM_LSZ_014A_020_2016_	7
Additional Permitted Uses Map		
APU_013C [new]	6380_COM_APU_013C_020_2016_	4
Floor Space Ratio Map		
FSR_013D	6380_COM_FSR_013D_020_2016_	6
FR_014A	6380_COM_FSR_014A_020_2016_	7
Height of Buildings Map		
HOB_013D	6380_COM_HOB_013D_020_2016_	6
HOB_14A	6380_COM_HOB_014A_020_2016_	7

Notes:

- The map sheet identifiers will be completed when the map sheets are prepared.
- These maps may need to be updated for the other amendments finalised prior to this amendment.

Appendix C – 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 D – Public authorities’ responses

Consultation will be made with the following authorities:

- Environment Protection Authority
- Office of Environment and Heritage
- NSW Roads and Maritime Services
- NSW Rural Fire Service

Their responses will be added to this Appendix following receipt.

Appendix E – Map Sheets to be adopted

Refer to comments in **Part 4 - Mapping** relating to draft LEP maps regarding changes in how the statutory maps will be provided in the future.

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

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

If required, the proposed map sheets to be adopted, as listed there, will be on the following pages.

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