

(Future) Public Exhibition Dates  
(Start) to (Finish)

## Planning Proposal under section 3.33 of the EP&A Act

### Port Macquarie-Hastings LEP 2011 (Amendment No \*)

[Crestwood Drive, Port Macquarie.]



**Planning Proposal status (for this copy)**

Stage	Version Date
Draft	July 2020
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 Department of Planning, Industry & Environment reference: \*

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Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on XX September 2020 by *Port Macquarie-Hastings Council, or the undersigned Council delegate* (delete one):

Signed .....

Name Dan Croft .....

Position Group Manager Development Assessment .....

2. For section 3.35 finalisation

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

Signed

.....

Name

.....

Position

.....

## **EXECUTIVE SUMMARY**

### **Planning Proposal**

This is a Planning Proposal in relation to a potential change of zoning of land at Crestwood Drive, Port Macquarie. The Planning Proposal applies to land being Lot 516 DP 1261705 Crestwood Drive, Port Macquarie (5,025 m<sup>2</sup>), Lot 497 DP 1237901 Crestwood Drive, Port Macquarie (3,875 m<sup>2</sup>), and Lot 319 DP 1214443 Crestwood Drive, Port Macquarie (2,623 m<sup>2</sup>).

### **What is a planning proposal?**

A Planning Proposal is a document that is prepared by a Council when it is intended to make changes to a local environmental plan (LEP) and it sets out the intended effect and justification for the proposed changes to the zoning of the land referenced in the Planning Proposal document. Under the *Environmental Planning and Assessment Act 1979*, Council must prepare and submit a Planning Proposal to the Department of Planning, Industry and Environment for consideration of an amendment to the *Port Macquarie-Hastings LEP 2011*.

This Planning Proposal is set out in the manner required by the State Government and it contains information required by the State Government when Council's prepare changes to their local environmental plans.

### **What is the intent of this planning proposal?**

The intent of this Planning Proposal is to make an amendment to the *Port Macquarie-Hastings Local Environmental Plan (LEP) 2011* in relation to planning controls on Council and privately owned land at Crestwood, including, lot size, height of buildings, and floor space ratio.

The normal mechanism for making changes to our local environmental plan (LEP) is to prepare a 'Planning Proposal' and an amending LEP that will replace the relevant sections of text and or maps in the principle LEP for an area. For Port Macquarie-Hastings, the principle plan is *Port Macquarie-Hastings Local Environmental Plan 2011*.

For any enquiries relating to the planning proposal, please contact Leanne Fuller on 6581 8111 or via email: [leanne.fuller@pmhc.nsw.gov.au](mailto:leanne.fuller@pmhc.nsw.gov.au)

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## Background

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At the Ordinary Council Meeting held on 20 May 2020, Council considered a report to rezone Lot 516 DP 1261705 Crestwood Drive, Port Macquarie from RU1 Primary Production to B1 Neighbourhood Centre. The subject land is shown in Figure 1 below.

The rezoning initiative originated from a request by the land owner / developer to convert un-subdivided rural zoned residue land at the southern end of the Crestwood residential estate. The Council report and meeting minute is included as Attachment 1.



Figure 1: Lot 516 (Yellow) and surrounding land at Crestwood Drive, Port Macquarie.

The assessment report, considered the Proponent's request in relation to Lot 516 and supporting information. After considering the report, Council resolved to:

- not support the Proponent's request for a rezoning of the land to B1 Neighbourhood Centre
- endorse a variation to the Proponent's proposal to rezone the site to RE2 Private Recreation
- include and apply appropriate zoning to adjoining Council owned land containing stormwater and recreation infrastructure
- forward a Planning Proposal document prepared by Council and based Council's endorsed variation, to the Department of Planning, Industry and Environment seeking a Gateway Determination.

## Planning Proposal

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This is a Planning Proposal document prepared in accordance with the Environmental Planning and Assessment Act 1979, the NSW Department of Planning Industry and Environment Guidelines for preparing planning proposals (2018) and local environmental plans (2018), and Port Macquarie-Hastings Council Planning Proposal Policy (effective February 2020).

It explains the intended effects of a proposed amendment to the *Port Macquarie-Hastings Local Environmental Plan 2011 (PMHLEP 2011)* to:

- rezone existing RU1 Primary Production land to the east of the Crestwood Park and Playground to RE2 Private Recreation
- rezone the Crestwood Park and Playground and adjoining stormwater infrastructure to RE1 Public Recreation and SP2 Infrastructure (Stormwater)
- apply appropriate building height, floor space ratio and minimum lot size standards to the site.

The proposal will result in an expanded recreation precinct at Crestwood Drive, Port Macquarie, involving both private and Council infrastructure.

## The Site

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The land proposed for rezoning is shown in Figure 2 and includes:

- Lot 516 DP 1261705 Crestwood Drive, (5,025 m<sup>2</sup>)
- Part Lot 497 DP 1237901 Crestwood Drive, Port Macquarie (3,875 m<sup>2</sup>)
- Lot 319 DP 1214443 Crestwood Drive, Port Macquarie (2,623 m<sup>2</sup>).



Figure 2: Context. Nearmap 2019 image showing the land in question, including private, vacant residue land (right of centre), Council playground, service infrastructure and drainage reserve (left and centre), and surrounding Lake Innes Nature Reserve.

This land lies at the southern extent of the Crestwood residential estate and it is adjoined by National Park estate to the east, and residential zoned land to the northeast and north west. Primary access is via Crestwood Drive from Ocean Drive, Port Macquarie.

### Council roles & responsibilities

For transparency, Richmond Horizons Pty Ltd and Pear Pty Ltd are the landowner seeking a rezoning in relation to:

Lot 516 DP 1261705 Crestwood Drive, Port Macquarie (5.027sqm)

Port Macquarie-Hastings Council is the landowner of the following:

Lot 497 DP 1237901 Crestwood Drive, Port Macquarie (3,875 m<sup>2</sup>)

Note: No change is proposed to that part of Lot 497 currently zoned E2 Environmental Conservation.

Lot 319 DP 1214443 Crestwood Drive, Port Macquarie (2,623 m<sup>2</sup>)

# Planning Proposal

## Part 1 - Objectives or Intended Outcomes

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The intended outcome of this Planning Proposal is to:

- resolve the current historic rural zoning for the residue land at Crestwood, comprising Lot 516 DP 1261705 (privately owned),
- resolve the current residential zoning for Lot 319 DP1214443 (Public stormwater infrastructure),
- resolve the current rural and part residential zoning for Lot 497 DP1237901 (Publicly owned recreation);
- deliver a development outcome for the landholder that is complementary to the site's unique physical location and characteristics;
- complement adjoining natural and recreational attributes;
- promote active and passive tourism and community open spaces outside urban growth areas, consistent with the North Coast Regional Plan *Direction 1 Deliver Environmentally sustainable growth; and Direction 8 Promote the growth of tourism.*
- Rectify current zone anomalies on Council owned and managed land at Crestwood Drive consistent, with their function as playground and service and drainage infrastructure.

## Part 2 - Explanation of Provisions

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The following **Land Zone** Changes to Port Macquarie-Hastings LEP 2011 are proposed to achieve the intended outcomes:

1. Amend the **Land Zoning Map** to rezone:
  - a. Lot 516 from RU1 Primary Production to RE2 Private Recreation to facilitate recreation and tourism uses;
  - b. Lot 497 from part R1 General Residential, part RU1 Primary Production and Part E2 Environmental Conservation to part E2 Environmental Conservation, and RE1 Public Recreation to reflect the community and recreational use of the land;
  - c. Lot 319 from part R1 General Residential to SP2 Infrastructure (Stormwater) to reflect Council's operational use of the land;

In addition, the following **LEP Map** changes are proposed to:

2. Amend the **Height of Building Map** in relation to Lot 516 to impose a maximum Height of Building of 8.5m;
3. Amend the **Floor Space Ratio Map** in relation to Lot 516 to impose a maximum Floor Space Ratio of 0.65:1.
4. Amend the **Lot Size Map** in relation to Lot 516 to impose a minimum subdivision Lot Size of 5000sqm.

## Part 3 – Justification

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In accordance with the Department of Planning, Industry and Environment's *A guide to preparing planning proposals*, this Part provides a response to the following matters:

- Section A: Need for the Planning Proposal
- Section B: Relationship to strategic planning framework
- Section C: Environmental, social and economic impact

- Section D: State and Commonwealth interests

#### **Section A - Need for the planning proposal.**

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

The Planning Proposal is not the result of a specific strategic study or report.

The Planning Proposal is the result of a site specific rezoning request initiated by the landowner of Lot 516 DP1261705. Adjoining Council owned land has been included in the planning proposal to correct anomalies that exist with regard to its zoning and the purpose for which this land is currently being used, and finalise planning controls in the area.

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

A Planning Proposal is the only mechanism by which the existing zone and related height of building, minimum lot size and floor space ratio controls may be changed.

#### **Section B - Relationship to strategic planning framework.**

##### **3. Is the planning proposal consistent with the objectives and actions of the North Coast Regional Plan 2036?**

The *North Coast Regional Plan (North Coast Regional Plan) 2036* identifies the boundaries of urban development for Port Macquarie-Hastings (Urban Growth Area) and three (3) Principles for guiding growth on the North Coast. This part addresses the Principles for Growth and supports a Variation to the Urban Growth Area Boundary.

Lot 516 is not located within the Urban Growth Area for Port Macquarie-Hastings. However Council has supported a variation to the UGA in this location based on the site's access to the natural environment of the Lake Innes Nature Reserve, and opportunities for limited commercial outcome on the site, satisfying the landholder's expectations for small scale food and drink premises and access to high quality walking and cycling trails.

Working with the Proponent and landholder, Council has supported a RE2 Private Recreation zone as an appropriate zone for the site having regard for the constraints to residential development associated with bushfire risk and the low density amenity of the adjoining residential area.

##### **NCRP Principle 1: Direct Growth to identified Urban Growth Areas (UGA).**

To achieve a balance between urban expansion and conservation of natural and environmental assets, the regional plan identifies the limits to urban growth for each local government area. The UGAs help to maintain the distinctive character of our local communities; direct growth away from significant farmland and sensitive ecosystems, and enable efficient planning for infrastructure and services.

##### **Comment:**

Council has identified a RE2 Private Recreation zone as an appropriate zone for the site having regard for the constraints to residential development associated with bushfire risk and the low density amenity of the adjoining residential area. A private recreation zone offers opportunities for limited commercial outcomes on the site, satisfying the landholder's expectations for small scale food and drink premises and access to high quality walking and cycling trails and the natural environment of the Lake Innes Nature Reserve.

Importantly, it was excluded from the original conversion of the Crestwood area from rural to urban due to its low lying nature, and irregular configuration extending into the Lake Innes Nature Reserve. At the time of the initial subdivision approval for the Crestwood residential estate it was nominated for stormwater detention. However, only part of the residue area was needed and

ultimately dedicated for stormwater detention. The remainder of the residue was filled and subsequently dedicated to Council for open space and playground in lieu of staged relief from payment of developer contributions for open space. The extent of stormwater and open space dedication is shown in Figure 6.



**Figure 6: Nearmap 2019 image of the vacant residue site (right of centre), and Council playground and drainage reserve (left and centre)).**

**NCRP Principle 2: Manage the Sensitive Coastal Strip.**

The coastal strip (or Zone) comprises land east of the Pacific Highway. The area is ecologically diverse, with wetlands, estuaries, significant farmland and areas of local, state and National significance. The area is also exposed to natural hazards and risks such as flooding, coastal inundation, erosion and recession. To safeguard the strip, the regional plan limits development in this area, and only minor and contiguous variations to the boundary will be considered by the State government.

**Comment:**

Lot 516 and the adjoining Council owned land are located within the Coastal Strip as defined in the Regional Plan. The area is also outside the UGA. Council is supportive of a minor variation to the growth area boundary in this location on the basis that updating planning controls as recommended in the report is consistent with the vision and guiding principles in the Regional Plan, particularly in relation to Directions 8, 14, and 15.

**NCRP Principle 3: Provide Great Places to Live and Work in a Unique Environment.**

The regional plan emphasises the need for cities and centres to be the focus for housing diversity, jobs and activities to reduce pressure on the environment and maximise the advantages of the North Coast's unique environment.

**Comment:**

Council's adopted UGMS Centres Hierarchy does not support a commercial centre in this location consistent with Council's local Urban Growth Management Strategy and Direction 6 of the Regional Plan.

However, a potential rezoning of the site to RE2 Private Recreation will provide the Proponent with small scale retail and nature-based development opportunities in keeping with the low density residential nature of the area, its proximity to the national park, and access to passive recreational opportunities.

4. [Is the planning proposal consistent with Council's Community Strategic Plan, Local Strategic Planning Statement and Urban Growth Management Strategy 2010 – 2031?](#)

A draft Local Strategic Planning Statement (LSPS) for the Port Macquarie-Hastings is currently on exhibition for community feedback.

Towards 2030 Community Strategic Plan

*Towards 2030 Community Strategic Plan* is an overarching 10 year plan prepared by Council and the community, and based on community priorities. The plan outlines the communities objectives for each of the themes identified in the plan:

- > Leadership and Governance
- > Your Community Life
- > Your Business and Industry
- > Your Natural and Built Environment

The Planning Proposal satisfies the key strategies of this Plan for Business and Industry and Natural and Built Environment in that it will:

- Create vibrant and desirable places
- Minimise the impact of natural events and climate change, for example, bushfires.
- Facilitate development that is compatible with the natural and built environment
- Result in sustainable and environmentally sensitive development outcomes that consider the impact on the natural environment
- Meet the community expectations and needs for a healthy and active community that is supported by recreational infrastructure

Proceeding to rezone Lot 516 to RE2 Private Recreation as recommended in Council's report (Attachment 1) builds on, and implements the objectives and community aspirations expressed in the plan, particularly:

- A collaborative community that works together and uses opportunities for community participation in decision making that is defined as ethically, socially and environmentally responsible.
- A healthy, inclusive and vibrant community. Actively participating in inclusive community activities
- The Port Macquarie-Hastings region is a successful place that has a vibrant, diversified and resilient regional economy for people to live, learn, work, play and invest.
- A connected, sustainable, accessible community and environment that is protected now and into the future.

Economic Development Strategy 2017 – 2021

Planning for an expanded recreation zone at Crestwood builds on the vision for Port Macquarie-Hastings to be a successful tourism destination, and region with a vibrant, diversified and resilient regional economy for people to live, learn, work, play and invest.

Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036

Planning for the public and private recreational development, allowing limited commercial activity is consistent with the aim of the UGMS to guide and manage urban growth to protect the unique qualities of our centres, and key public places.

The Planning Proposal seeks to reinforce the unique location and characteristics of the location, while ensuring that potential impact on the centres hierarchy are mitigated through:

- A minimum 5,000sqm lot size to limit fragmentation of Lot 516
- 0.65:1 Floor space ratio to provide for small scale compatible recreational development in keeping with the capacity of the site.

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

An assessment of State Environmental Planning Policies relevant to the Planning Proposal request is provided below:

SEPP	Consistent	Reason/s for inconsistency or comment
State Environmental Planning Policy No. 36 Manufactured Housing Estate	Minor inconsistency.	<p>The SEPP aims to facilitate manufactured housing on certain land on which caravan parks are permitted as a contemporary form of medium density housing.</p> <p>A change of zone will affect permissibility of MHE development under the SEPP. If zoned to RE2 Private Recreation as proposed in the report, MHE development will be permitted with consent.</p> <p>However, MHE development is unattainable on the site based on designated 'Special purpose development' requirements under NSW Rural Fire Service Guidelines. The designation imposes additional APZ and mitigation requirements for vulnerable forms of development, which cannot be achieved on the site.</p>
State Environmental Planning Policy (Coastal Management) 2018	Yes	<p>The aim of this Policy is to manage development in the coastal zone and protect the environmental assets of the coast. The subject land is identified as being located within the 'Coastal Zone', as the land is identified by the 'Coastal Wetlands and Littoral Rainforests Area Map' - 'Proximity Area for Coastal Wetlands'. The following controls, are relevant:</p> <p>Division 1 – Coastal wetlands and littoral rainforests area</p> <p><i>Clause 10 – Development on certain land within coastal wetlands and littoral rainforests area.</i> The proposed development is not within a coastal wetland or littoral rainforest area and consequently the provisions of this clause are not applicable.</p> <p><i>Clause 11 – Development on land in proximity to coastal wetlands or littoral rainforest.</i> The site is located within proximity to land mapped as 'Coastal Wetlands'. An assessment of the impact in regard to the provisions of this Policy will be required at the time of future development of the land on the impact on: the biophysical, hydrological or ecological integrity of the adjacent wetland.</p>

SEPP	Consistent	Reason/s for inconsistency or comment
		Further, assessment of stormwater management will be necessary at the time of development of Lot 516 to assess the impact on the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.
State Environmental Planning Policy 55 Remediation of Land	No.	<p>This policy introduces state-wide planning controls for the remediation of contaminated land. The policy specifies that the consent authority must not consent to the carrying out of any development unless it has considered whether the land on which the development is proposed is contaminated and/or is required to be remediated for its intended use.</p> <p>The land included in the Planning Proposal is not identified in Council's Contaminated Land Register. A preliminary contaminated land investigation and report did not accompany the Planning Proposal in relation to Lot 516. A report will be required in accordance with SEPP 55 to support the Planning Proposal. Council's Contaminated Land Policy 2017 requires that a suitably qualified and practising contaminated land practitioner undertake the assessment.</p> <p>Lot 516 has been filled and raised to a level consistent with the design level of Crestwood Drive.</p> <p>Lot 497 and Lot 319 have also been filled and reshaped consistent with the levels required for stormwater disposal, retention and playground. All filling has been in association with subdivision works for the adjoining residential estate.</p>
Primary Production and Rural Development 2019.		<p>The aim of the policy is to facilitate the orderly and economic use of development of lands for primary production.</p> <p>Existing RU1 Primary Production zoned land is proposed to be zoned for private and recreational use, and SP2 Infrastructure, consistent with the intent of the planning proposal and the current use of the land.</p>

#### 6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 Directions)

A detailed assessment of the consistency of this Planning Proposal with Ministerial Directions of relevance applying within the Port Macquarie-Hastings local government area is below.

There are some minor inconsistencies, which require the agreement of an authorised officer of the Department of Planning, Industry & Environment. The minor inconsistencies are:

S9.1 Direction	Consistent	Reason for inconsistency or comment
1.1 Business and Industrial Zones.	No	<p>The objective of the direction is to encourage employment growth in suitable locations, protect employment land, and support the viability of existing centres. The direction states that a planning proposal must:</p> <ul style="list-style-type: none"> <li>a) give effect to the objectives of this direction,</li> <li>b) retain the areas and locations of existing business and industrial zones,</li> <li>c) not reduce the total potential floor space area for employment uses and related public services in business zones,</li> <li>d) not reduce the total potential floor space area for industrial uses in industrial zones, and</li> <li>e) ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.</li> </ul> <p><b>Comment:</b> The Planning Proposal is inconsistent with this Direction because it proposes to introduce a zone allowing limited commercial activity. The relationship to other commercial centres has been considered by Council at its meeting held on 20 May 2020. A minor inconsistency is justified on the basis that allowable uses, such as cafes, kiosks and takeaway food and drink premises, are limited in scale and nature by the capacity of Lot 516.</p>
1.2 Rural Zones	No, minor.	<p>The objective of this direction is to protect the agricultural production value of rural land. The direction states that a planning proposal must:</p> <ul style="list-style-type: none"> <li>a) not rezone land from a rural zone to a residential, business, industrial, village or tourist zone.</li> <li>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).</li> </ul> <p>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 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, or, in this case, of a minor nature.</p> <p><b>Comment:</b> In the case of the land in question, an inconsistency is justified because the land is isolated from larger areas of rural zoned land, is not used for rural purposes, and is inappropriate in the location as a rural residue.</p>
1.5 Rural Lands	No, Minor	<p>The objectives of the direction are to protect and assist in the management of rural lands and the agricultural potential of</p>

S9.1 Direction	Consistent	Reason for inconsistency or comment
		<p>rural land; facilitate its orderly and economic use and development; and minimise land use conflict and fragmentation; and encourage sustainable land use practices. The direction applies to preparation of a planning proposal that will in this case affect rural land.</p> <p>A Planning Proposal must be consistent with relevant strategic plans; consider the agricultural significance of the land affected by the planning proposal; consider the natural and physical constraints of the rural land in question; and promote and prioritise rural investment opportunities to support farmers; and prevent fragmentation of rural land. It must also demonstrate that it minimises rural land fragmentation and land use conflict.</p> <p><b>Comment:</b> The Planning Proposal is considered consistent having regard for the unsuitability of the current rural zoning of the site, its isolated location, and surrounding land use pattern.</p>
2.2 Coastal Management	No	<p>The objective of the direction is to protect and manage coastal areas of NSW. The proposal applies to planning proposal in relation to land that is within the coastal zone.</p> <p>A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</p> <ul style="list-style-type: none"> <li>a) within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or</li> <li>b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken: <ul style="list-style-type: none"> <li>i. by or on behalf of the relevant planning authority and the planning proposal authority, or</li> <li>ii. by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.</li> </ul> </li> </ul> <p><b>Subclause 6</b> - A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by the State Environmental Planning Policy (Coastal Management) 2018.</p> <p>A Planning Proposal may be inconsistent with this direction only if the relevant authority for the planning proposal can satisfy the Secretary of the Department of Planning and Environment that the provisions of the planning proposal that are inconsistent are justified by a strategy which gives consideration to the direction, or in accordance with an endorsed regional plan; or of minor significance.</p>

S9.1 Direction	Consistent	Reason for inconsistency or comment
		<b>Comment:</b> The inconsistency with the direction is minor having regard for the intended recreational use of the land.
2.6 Remediation of Contaminated Land	No	<p>The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.</p> <p>The direction applies in this case to:</p> <p>Clause 2 [c] - the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:</p> <ul style="list-style-type: none"> <li>i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and</li> <li>ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).</li> </ul> <p>Clause 4 - A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:</p> <ul style="list-style-type: none"> <li>a) the planning proposal authority has considered whether the land is contaminated, and</li> <li>b) if the land is contaminated, the planning proposal authority 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</li> <li>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 proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.</li> </ul> <p>In order to satisfy itself as to subclause 4(c), the planning proposal authority may need to include certain provisions in the local environmental plan.</p> <p>Clause 5 - Before including any land specified in paragraph (2) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.</p> <p><b>Comment:</b> An inconsistency exists. The land is not known to be contaminated and is not identified in Council's Contaminated Land Register. However the land has been</p>

S9.1 Direction	Consistent	Reason for inconsistency or comment
		<p>filled as a result of adjoining subdivision works, and in order to satisfy itself as to the direction, Council has a responsibility to consider a report consistent with Clause 5 of this Direction.</p> <p><b>A Stage 1 contamination report (under Clause 5) has not been submitted with the Planning Proposal request for the filled and modified site. Council therefore requests that any Gateway Determination issued in relation to the land in question is subject to Council consideration and assessment of an appropriate contamination report.</b></p>
4.4 Planning for Bushfire Protection		<p>The objectives of this direction are:</p> <ul style="list-style-type: none"> <li>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</li> <li>b) to encourage sound management of bush fire prone areas.</li> </ul> <p>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. As referenced in the report, the site is designated bushfire prone land ‘buffer’.</p> <p>There are three technical inconsistencies with the requirements of this Direction, relating to subclauses (4) to (6) of the Direction:</p> <p><b>Comment:</b> 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. Consultation with the RFS will occur following any Gateway Determination for a Planning Proposal in relation to the site.</p> <p>Subclause (5) requires that the Planning Proposal 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.</p> <p>Depending on the interpretation of subclause (6), it is required that the planning proposal contain development application details. If this is the case, then this is a further inconsistency.</p>
5.10 Implementation of Regional Plans	No, minor	<p>The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.</p> <p><b>Comment:</b> A Planning Proposal must be consistent with a regional plan. In this case, proceeding with a Planning Proposal as recommended in the report is considered to achieve the overall intent of the regional plan, its vision, goals, directions, and actions.</p>

### Section 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 *Biodiversity Conservation Act 2016* contains measures to identify and protect critical habitat or threatened species, populations or ecological communities, or their habitats, and to identify and mitigate key threatening processes.

Based on the status of the proponents site as vacant, filled, and managed seeded grassland, in addition to the controlled nature of the adjoining public (Council) land, there are no known or anticipated considerations at this time. A referral to the NSW Biodiversity Conservation Division (Planning Industry and Environment) is not considered necessary.

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

A significant bushfire risk exists on the site. NSW Rural Fire Service Guidelines “*Planning for Bushfire Protection 2019*”, effective from March 2020, will apply to future development of the site. Council staff have discussed the bushfire risk in length with the Proponent, noting that any form of private recreational development on Lot 516 will need to satisfy the requirements for containment of APZs on-site.

Consultation with the NSW Rural Fire Service will be undertaken as part of the Planning Proposal process, and prior to community engagement.

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

The potential economic effects of the Proponent’s proposal have been addressed in the preceding Strategic Merit Assessment of the report. Social impacts associated with the Council recommended Planning Proposal for an RE2 Private Recreation zoning of the land are considered to be positive.

#### Visual and local amenity

Council notes the developing nature of the broader Crestwood area and its approaching completion. Housing is predominantly new, low rise, and low density (predominantly single dwellings) in character.

Existing public recreational infrastructure on Council owned land are actively used by local residents and visitors alike. An expanded recreational precinct, with access to passive recreational opportunities within the Lake Innes Nature Reserve, will introduce new complementary opportunities such as a kiosk, restaurant or café, adding to the overall vibrancy and local amenity of the area.

The proposed changes to the Land Zone and associated development standards for height of building, floor space ratio and minimum lots size will deliver complementary development outcomes for the landholder and the broader community. No significant or adverse social and economic benefit is envisaged.

### D - State and Commonwealth interests.

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

#### Road infrastructure

Access is via Crestwood Drive. No further road works are envisaged in relation to the Council owned land. Funding for and construction of a separate standalone access way to Lot 516 and associated onsite parking needed for future development outcomes on the lot are assumed to be at the cost of the developer.

### Service Infrastructure

Access to water and sewer infrastructure is available to Lot 516. Council owned lots are serviced to the extent necessary.

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

The Department of Planning, Industry and Environment's Gateway Determination will specify requirements for consultation on the Planning Proposal with State and Commonwealth Government agencies. It is expected that consultation would occur with NSW Rural Fire Service, Office of Environment and Heritage as adjoining land owners, Birpai Local Aboriginal Land Council, and potentially NSW Department of Primary Industries.

## Part 4 – Mapping

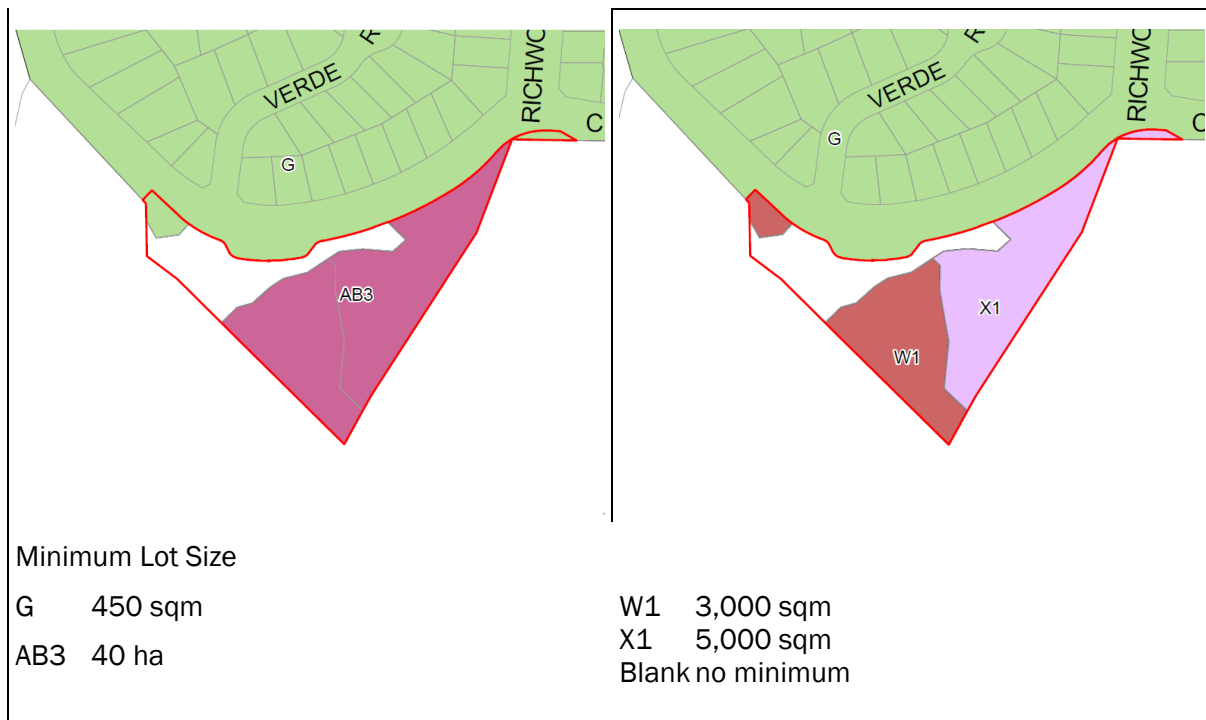
Proposed Map amendments, as described in Part 2 of this Planning Proposal are shown below.

### Land Zoning Map

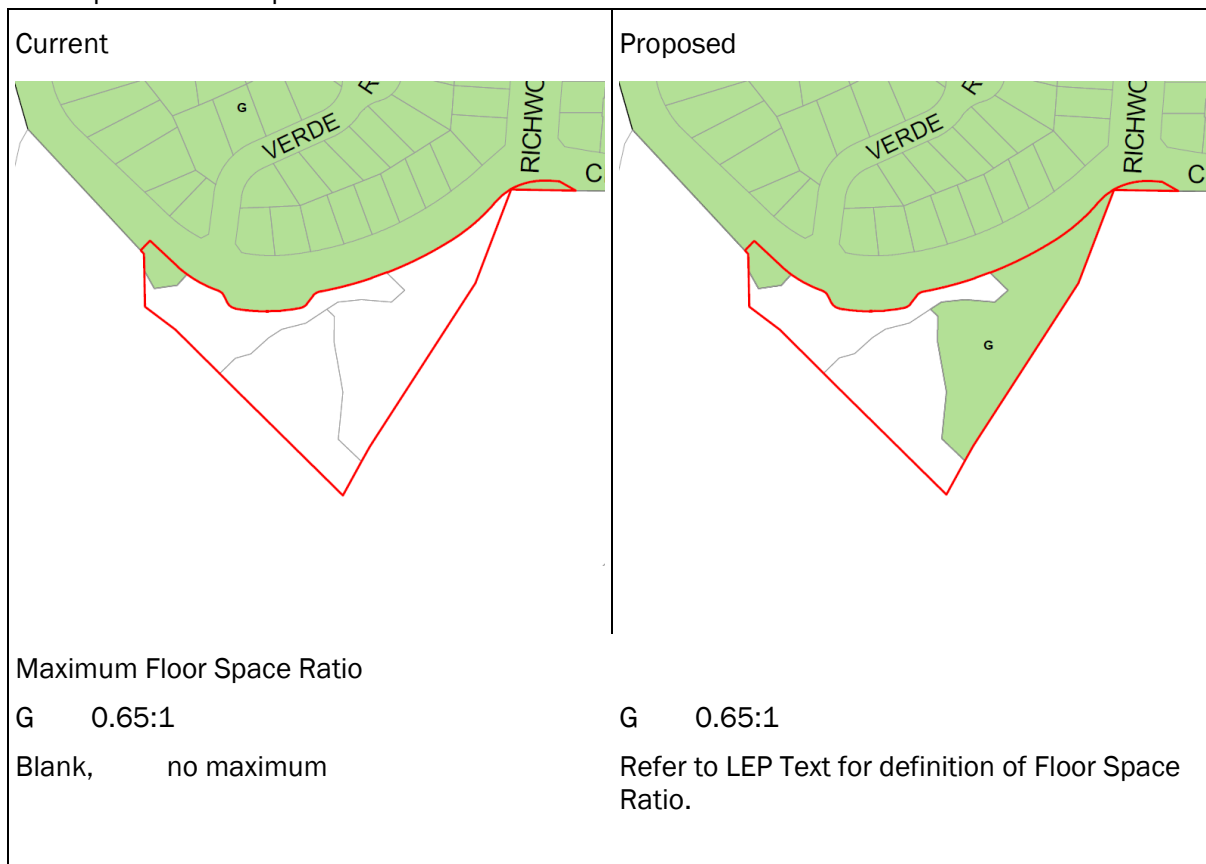
Current	Proposed
<b>Zone Codes</b> R1 General Residential RU1 Primary Production E2 Environmental Conservation RE1 Public Recreation RE2 Private recreation SP2 Infrastructure (Health Services facility)	

### Lot Size Map

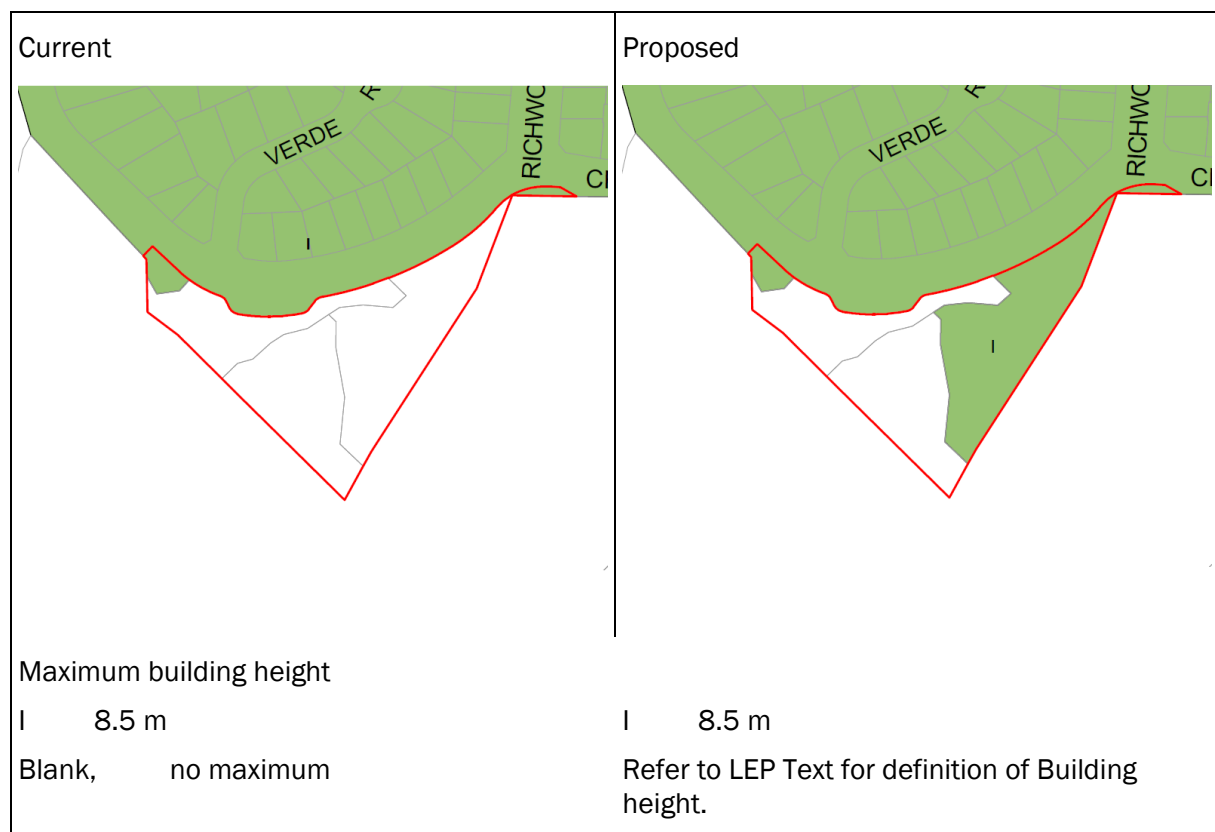
Current	Proposed
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#### Floor Space Ratio Map



#### Height of Buildings Map



## Part 5 – Community Consultation

The proposal is not considered to be a low impact proposal, and a 28 day public exhibition period is nominated.

Community engagement and agency consultation will be undertaken in accordance with the Gateway Determination, the requirements of the *Environmental planning and Assessment Act 1979* and Council's Community Participation Plan (2019).

The consultation and public exhibition will include notification on Council's website and written notification to all affected and adjoining landowners. This includes writing to the owners of the Lake Innes Nature Reserve, advising of the Planning Proposal and inviting submissions as part of the public exhibition process.

For the purposes of the public exhibition, a *Statement of Council Interest* will be included in the Planning Proposal, consistent with the Department of Planning Industry and Environment's *Best Practice Guideline - LEPs and Council Land 1997*.

## Part 6 – Project Timeline

The project timeline is based on anticipated dates and timeframes, though there can be unexpected delays.

Given that Council has a direct interest as landowner and Proponent in relation to part of the land in question, it is assumed that Council does not have delegation to carry out certain plan-making functions. Delegation would be exercised by the Department of Planning, Industry and Environment as the local plan-making authority for the Planning Proposal.

Planning Proposal process outline

Anticipated Timeframe

Commencement (date of Gateway determination)	Sept 2020
Timeframe for completion of required additional information (as required by Gateway Determination)	Oct/Nov 2020
Timeframe for government agency consultation (as required by Gateway Determination)	Oct/Nov 2020
Public exhibition period	November/December 2020
Timeframe for consideration of submissions	December/January 2020
Timeframe for the consideration of a proposal post exhibition	February 2021
Date of submission to the Department to finalise the LEP	February/March 2021
Date the Department will make the plan	April/May 2020

## Appendix A - Council Reports - Report to Council & Meeting Minutes 20 May 2020.

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## Appendix B – Proponent's Planning Proposal Request

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## Appendix C – Gateway Determination

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

The Section 3.34 Gateway Determination addresses processing requirements:

- (a) whether the matter should proceed (with or without variation),
- (b) whether the matter should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal),
- (c) the minimum period of public exhibition of the planning proposal (or a determination that no such public exhibition is required because of the minor nature of the proposal),

Note. Under Schedule 1, the mandatory period of public exhibition is 28 days if a determination is not made under paragraph (c).

- (d) any consultation required with State or Commonwealth public authorities that will or may be adversely affected by the proposed instrument,
- (e) whether a public hearing is to be held into the matter by the Independent Planning Commission or other specified person or body,
- (f) the times within which the various stages of the procedure for the making of the proposed instrument are to be completed,
- (g) if the planning proposal authority is a council – whether the council is authorised to make the proposed instrument and any conditions the council is required to comply with before the instrument is made.

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



## Appendix D – List of proposed amendments

### A. Changes to text

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There are no proposed changes to *Port Macquarie-Hastings LEP 2011* text.

### B. Changes to Map Sheets

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The following map sheets are proposed to be revoked:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map LZN_013G	6380_COM_LZN_013G_020_20181114	
Lot Size Map LSZ 013G	6380_COM_LSZ_013G_020_20181129	
Floor Space Ratio FSR 013G	6380_COM_FSR_013G_020_20181107	
Height of Building HOB 013G	6380_COM_HOB_013G_020_20190924	

**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	Appendix B - details reference
Land Zoning Map LZN_0	6380_COM_LZN_0#_020_201*	
Lot Size Map LSZ_0	6380_COM_LSZ_0#_020_201*	

**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.

## Appendix E – Map Cover Sheet and new Map Sheets

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The Map Cover Sheet and associated Map Sheets to be adopted are part of the submission of the draft LEP for formal approval by the Minister for Planning or delegate.

They will not be prepared until that stage.

Where printed, the Map Cover Sheet and associated Map Sheets will follow this page.

Where in electronic form, they may be in separate documents.

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

## Appendix A - Council Reports - Report to Council & Meeting Minutes 20 May 2020.

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Item: 13.04

Subject: PLANNING PROPOSAL PP2017 - 4.1: LOT 516 DP1261705,  
CRESTWOOD DRIVE, PORT MACQUARIE

Presented by: Development and Environment, Melissa Watkins

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#### Alignment with Delivery Program

4.5.1 Carry out strategic planning to manage population growth and provide for co-ordinated urban development.

#### RECOMMENDATION

That Council:

1. Not support the Planning Proposal application in relation to Lot 516 DP 261705, Crestwood Drive, Port Macquarie, requesting a rezoning of the land from RU1 Primary Production to B1 Neighbourhood Centre for the following reasons:
  - a) The proposed Planning Proposal could result in a development that is unacceptable in terms of economic and environmental impact, specifically:
    - i) The request proposes development of land which would be inconsistent with Object (b) of the Environmental Planning and Assessment Act, 1979.
    - ii) The request for approximately 5000m<sup>2</sup> of Neighbourhood Business zoned land at Crestwood is inconsistent with Council's Hierarchy of Business Centres as adopted in the Port Macquarie-Hastings Urban Growth Management Strategy 2017- 2036 and the subject land is not identified as a future Local Neighbourhood Centre;
    - iii) A commercial zoning of the land presents significant bushfire risk to life and property as a B1 Neighbourhood Centre zone would allow certain types of residential land uses, which Council is not able to prohibit.
  - b) The Planning Proposal is inconsistent with:
    - i) The North Coast Regional Plan 2036 Principles for urban growth, and Direction 6 Develop successful centres of employment (new commercial precincts, outside of centres, to maintain the strength of the local economy);
    - ii) Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036 (UGMS) - Hierarchy of Business Centres;
    - iii) Ministerial Directions 1.1 Business and Industrial Zones; 4.4 Planning for Bushfire Protection; 5.10 Implementation of Regional Plans; and 6.3 Site Specific Provisions.
    - iv) The Planning Proposal does not demonstrate strategic and site-specific merit in accordance with the Strategic Merit Test outlined in the Department of Planning & Environment's A Guide to preparing planning proposals.

- v) The Planning Proposal Application is inconsistent with Council's Planning Proposal Policy as it is a proposal which is:
    - Inconsistent with the UGMS, and Council's established Hierarchy of Business Centres;
    - Conflicts with Council's economic development objectives for employment and industry.
- 2. Prepare a Planning Proposal to rezone land as shown in Figure 1 of this report, pursuant to section 3.33 of the *Environmental Planning and Assessment Act 1979*, for the amendment of the provisions of *Port Macquarie-Hastings Local Environmental Plan 2011*, in relation to Lot 516 DP1261705 (private), Lot 497 DP1237901 (Council owned and managed), and Lot 319 DP1214443 (Council owned and managed) at Crestwood to:
  - a) Amend the Land Zoning Map to rezone:
    - i) Lot 516 from RU1 Primary Production to RE2 Private Recreation to facilitate recreation and tourism uses;
    - ii) Lot 497 from part R1 General Residential and part RU1 Primary Production to RE1 Public Recreation to reflect the community and recreational use of the land;
    - iii) Lot 319 from part R1 General Residential to SP2 Infrastructure (Stormwater) to reflect Council's operational use of the land;
    - iv) Amend the Height of Building Map in relation to Lot 516 to impose a maximum Height of Building of 8.5m;  
Amend the Floor Space Ratio Map in relation to Lot 516 to impose a maximum Floor Space Ratio of 0.65:1.
- 3. Forward the Planning Proposal described in point 2 above to the NSW Department of Planning, Industry and Environment for a Gateway Determination under Section 3.34 of the *Environmental Planning & Assessment Act 1979*, and request that the Gateway Determination authorise Council to be the local plan-making authority.
- 4. Delegate authority to the Director Development and Environment to make any minor amendments to the Planning Proposal as a result of the issue of the Gateway Determination, prior to public exhibition of the Planning Proposal.

### Executive Summary

The purpose of this report is to consider a Planning Proposal request (PP2017 - 4.1) from Land Dynamics Australia to rezone Lot 516 DP1261705, Crestwood Drive, Port Macquarie, and provide the outcomes of an assessment of the request.

The request, as amended by the Proponent in February 2020, seeks to rezone Lot 516 from RU1 Primary Production under *Port Macquarie-Hastings Local Environmental Plan (LEP) 2011*, to B1 Neighbourhood Centre. The request states the proponent's intended development outcome is to:

- 1. "facilitate business development on the site;
- 2. allow development of complementary land uses such as a café, restaurant, and neighbourhood shops to support the residents of the surrounding residential estate;
- 3. promote the health and wellbeing of the community".

The current zoning of Lot 516 is *RU1 Primary Production*. The property is within a designated bushfire area (NSW Rural Fire Service).

Proponents for the landholder initiated discussions with Council staff in relation to rezoning Lot 516 for residential purposes in August 2015. Council resolved to include investigations into a change of land use in relation to Lot 516 in March 2018, following resolution of other residue land at Crestwood through an Administrative LEP amendment process in 2017-18.

The Planning Proposal request was lodged in December 2018 and initially proposed to rezone the site to R1 General Residential. Assessment of the information raised significant concerns in relation to the proposed residential use of the site having regard for the designated bushfire hazard, and the Proponent's intention to use Council owned land and National Park estate for the purpose of asset protection zones for development of the land.

The National Parks and Wildlife Service confirmed to the Proponent that it will not accept the use of National Park estate for asset protection purposes for private development. Similarly, it is Council policy to not accept any Asset Protection Zone (APZ) burden or responsibility for residential development over publicly owned land.

The request has been subsequently amended on two occasions in response to the concerns around management of bushfire risk, including the need for on-site containment of APZs for any proposed residential development of the site. In response, the revisions to the request have sought to obtain a commercial development outcome for the site:

1. August 2019: B2 Local Centre;
2. February 2020: B1 Neighbourhood Centre, with covenants restricting residential outcomes in the proposed zone.

Key to the identification of a suitable zoning for the site is the management of bushfire risk and maintenance of the hierarchy of business centres. A business zoning of the site is not supported as this is inconsistent with Council's adopted Hierarchy of Business Centres within the *Urban Growth Management Strategy 2017-2036*, and certain types of residential development are mandated as permissible in the B1 and B2 business zones, such as boarding houses, shop top housing and hostels. Any type of future residential development of the site is not supported by Council on the basis that residential development will require the use of publicly owned land for bushfire asset protection as APZs for such development, and are unable to be contained wholly within the boundaries of the subject land.

The report recommends that Council not support the Proponent's Planning Proposal request for a commercial zoning of the site. However, it is recommended that Council support a variation to the proponent's request and prepare a Planning Proposal to rezone the site to RE2 Private Recreation. This would deliver a development outcome for the proponent in terms of limited retail development on the site, such as cafes, kiosks and takeaway food and drink premises. The proposed zone variation is shown in Figure 1.

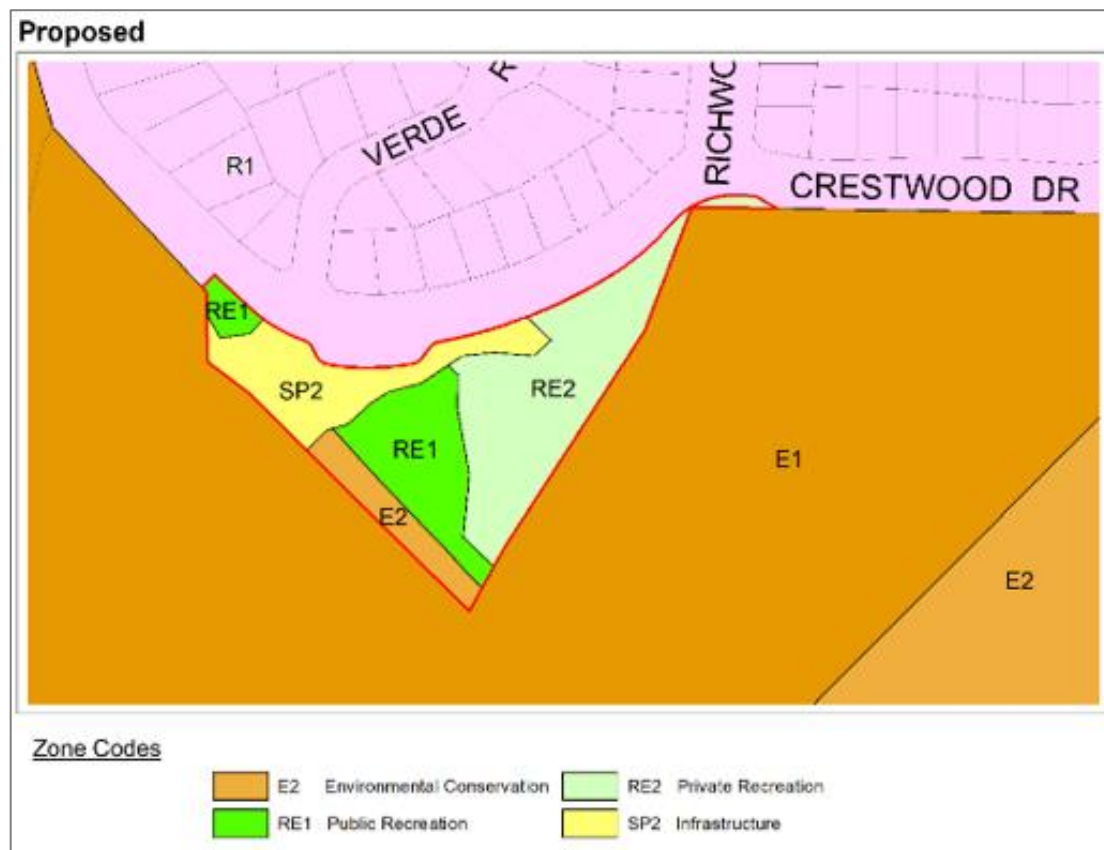


Figure 1: Recommended Zone Layout

The report also recommends that additional land adjoining the site be incorporated within the Planning Proposal. This land is Council owned and managed, however is currently zoned Part RU1 Primary Production (Lot 497 DP1237901) and Part R1 General Residential (Lot 319 DP1214443, and Part Lot 497 DP1237901), which are not appropriate land use zones having regard to their function as playground (Community land) and Stormwater Management (Operational land) under the *Local Government Act, 1993*.

### Background

There have been a number of update reports presented to Council in relation to the status of all Site Specific Planning Proposal requests, most recently at the Ordinary Council meeting on 11 December 2019 (Item 13.10). At this meeting Council noted that a large amount of work had been undertaken by Council staff in relation to the request for Crestwood Drive, which remained in the same Status Category for a range of reasons including the Proponent lodging additional information requiring internal referral and review, and negotiations around key issues.

In November 2019 Council staff advised the Proponent that a commercial zoning of the site presented a range of planning inconsistencies:

- Conflicts with Council's adopted Hierarchy of Business Centres in the UGMS 2017-2036. The land is not identified as an existing or future location for a business centre in the Port Macquarie LGA and is not considered suitable for a commercial zoning;

- Conflicts with NSW Government strategic principles for Planning for Bushfire Protection (2019). The shape and location of the site make it vulnerable to significant bushfire hazard and risk. Additionally, Council staff have identified that in-perpetuity asset protection zones (APZs) for any residential development on the site are unable to be wholly contained on site due to the irregular shape of the land, and as required under *NSW Rural Fire Service Planning for Bushfire Protection 2019*.
- A commercial zoning of the land presents significant bushfire risks to life and property in this location, as a B1 Neighbourhood Centre or B2 Local Centre zone allows certain types of residential uses which Council is not able to prohibit.

In negotiations with the Proponent in late 2019, Council staff suggested an alternative pathway for a potential future zoning of the land to zone *E3 Environmental Management* to provide opportunity for a single residential dwelling, or zone *RE2 Private Recreation* to provide for some small scale activity such as a kiosk, restaurant or café on the site.

In February 2020, the proponent submitted an amended Planning Proposal request. The amended request opted against Council staff advice, and has requested a B1 Neighbourhood Centre zoning of the land.

### The Site

The subject land comprises un-subdivided rural residue land at the southern extension of Crestwood Drive, Port Macquarie.

The land has a site area of around 5,027m<sup>2</sup> and is irregular in shape, with direct frontage to Crestwood Drive. It is legally described as Lot 516 DP 1261705. Progressive filling and levelling over the course of the Crestwood development has achieved a generally level site at RL5:0m - RL5.3m with steep batters to the adjoining wetland and reserve areas.

The Site is adjoined by National Park estate to the east as shown in Figure 2 and Council owned land for open space and stormwater management to the north and west. Figure 2 below shows the extent of land included in the Proponent's Planning Proposal Application, and adjoining Council land and National Park Estate zoned E1 (National Parks and Nature Reserves).



Figure 2: Extent of land included in the Proponent's Planning Proposal request (outlined yellow).

Council records show that the subject land shown above was not included in the original zoning of the land for residential subdivision due to its low lying, and flood prone nature. The zoning file shows that the extent of the residential zone at the time was based on the 3m contour level, the residue area being significantly below this level prior to filling.



*Figure 3: Location photo, overlooking the site (mid centre, and overgrown), in the context of surrounding nature reserve, playground and housing.*

The site is located approximately within a 1.4 - 4km radius of other local business centres such as Tacking Point Shopping Centre, Shelly Beach Store, and Waniora and Greenmeadows Drive local centres.

The site is zoned RU1 Primary Production under the *Port Macquarie-Hastings Local Environmental Plan 2011* with a minimum lot size for subdivision of 40 hectares.

#### **Proponent's Amended Planning Proposal Application, 19 February 2020**

An amended Planning Proposal request and associated documentation was received on 19 February 2020 (**Attachment 1**). The revised Planning Proposal requests a rezoning of the land to B1 Neighbourhood Centre.

Included in the amended Planning Proposal are:

1. Pre-lodgement Notes
2. Proposed Rezoning Plan
3. Indicative Open Space Management Plan
4. Services Plan
5. Indicative Buffer Plan
6. Aboriginal Cultural Assessment
7. Bushfire Assessment
8. Indicative Commercial Site Plan
9. Initial Business Demand Supply Review
10. Cover Letter

The submission contends that there is local community support for *“a low scale business centre with facilities for the local community to assist with their day-to-day needs, provide a social meeting space through cafes, amenities including drinking fountains, toilets and shade areas”*.

Also, that *“this parcel of land is residue and has the opportunity to be the central hub of the estate. The rural zoning of the site is unsuitable and there is need for a suitable infill development which has a benefit to the landowner and the community, rather than leaving an overgrown residue piece of land in a prominent location, frequented by not only residents but also visitors to the area”*.

#### Intended Development Outcome

The Planning Proposal Application seeks to rezone the subject land from RU1 Primary Production to zone B1 Neighbourhood Centre. The objectives of the B1 zone are to:

- *Provide for a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *Ensure that new developments make a positive contribution to the streetscape and contribute to a safe public environment.*
- *Provide a focal point for the neighbourhood community.*

Refer Figure 4 for the Proponent's requested zoning plan.

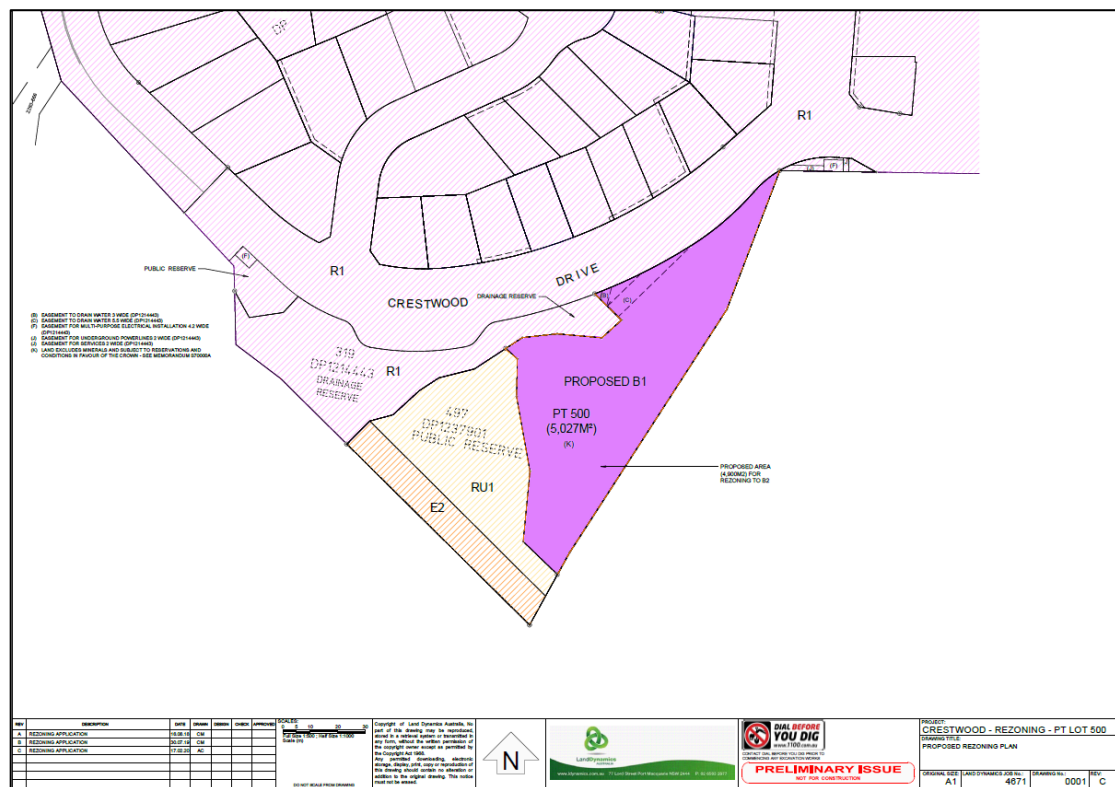


Figure 4: The Proponent's intended zone plan.

The Proponent has advised that the key objectives of the amended Planning Proposal are to:

*“Achieve business development of the site, complementary to the surrounding area and land uses, whilst having regard to the irregular shape and constraints of the site”.*

*“Enable the residue rurally zoned land, which is not required by Council for open space purposes, to be developed for commercial purposes, specifically a Neighbourhood Centre to complement the residential estate of Crestwood and provide supporting services for the residents such as a café, restaurant, doctor and neighbourhood shops”.*

*“To promote the health and wellbeing of the community”.*

Refer Figure 5 for the Proponent's indicative development concept for the site.

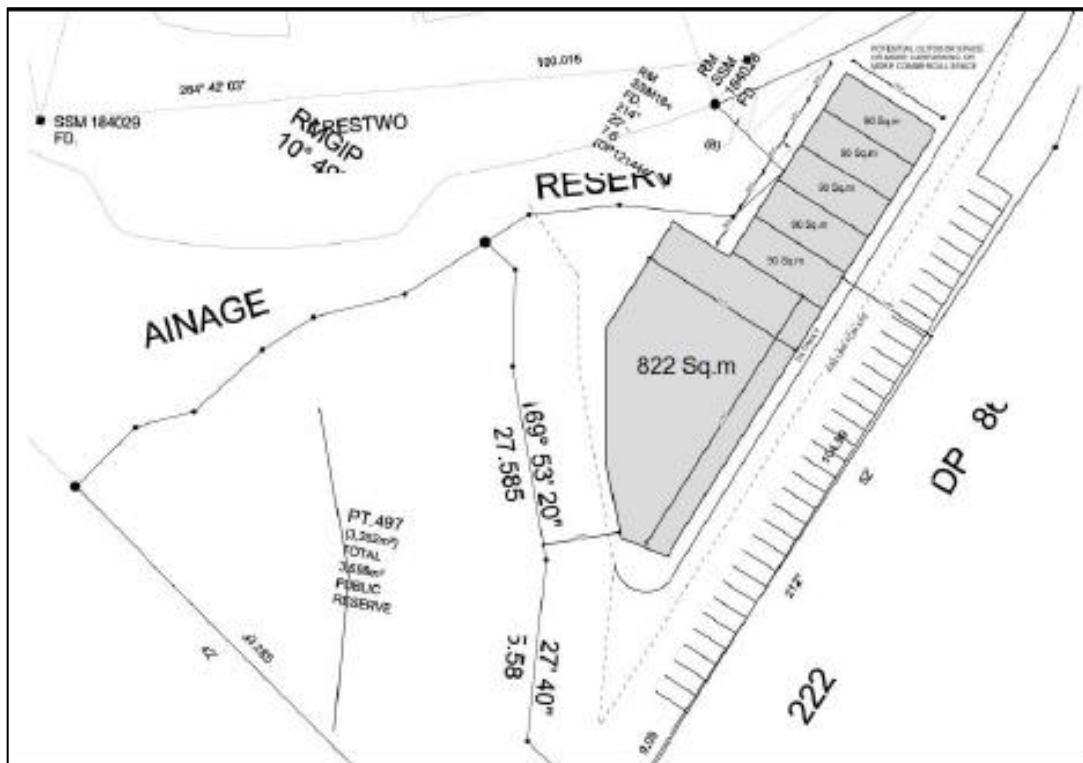


Figure 5: Proponent's Indicative Site Plan for Commercial Purposes (Source: Collins W Collins)

The Proponent has advised that if the land is rezoned, the site has the opportunity to be the central hub of the Crestwood estate. The Proponent considers that the rural zoning of the site is unsuitable, and there is need for a suitable infill development which has a benefit to the landowner and the community, rather than leaving an overgrown residue piece of land in a prominent location, frequented by residents and visitors to the area.

Following the formal lodgement of the Planning Proposal in December 2018, and payment of fees in January 2019, a number of referral and reviews of proponent information have occurred and meetings have been held between the Proponent, land owner representatives and Council staff to discuss key concerns. The most recent meeting was on 4 December 2019. An amended Planning Proposal was received from the Proponent on 19 February 2020.

In their amended planning proposal request, the Proponent notes that,

*"We have amended our Planning Proposal request to seek a commercial zoning over the entire site to B1 Neighbourhood Centre.*

*We have taken on board the discussion and the issues and we are aware that the key principal issue with the previously proposed residential zone, and the current proposed business zone, relates to bushfire. It is clear from the discussions with Council's Bushfire Officer that residential use of the land cannot be achieved due to bushfire constraints. Therefore, allowing a residential land use in the B1 zone such as shop top housing would not be able to be achieved due to bushfire constraints, despite the zoning.*

*“Whilst bushfire would prevent specific land uses at the Development Application stage when a full assessment of a specific land use is known and able to be undertaken, the landowner is proposing to be proactive and place a restriction on the title which prohibits residential use of the site. Council would be the responsible authority to control any variation to this restriction, which is not anticipated to occur”.*

Staff have consistently outlined their concerns around introduction of any new commercial zones within the Port Macquarie area, as well as bushfire and permissible use limitations.

Importantly, Council's adopted hierarchy of business centres does not support a new business zone in this location, including a neighbourhood business zone as proposed in the Proponent's revised submission (February 2020), and the use of a restriction-to-user on the title to the land to disallow a permissible (mandated) residential use in zone B1 Neighbourhood Centre as suggested is inappropriate. The Proponent has further suggested addition of a local clause in Port Macquarie-Hastings LEP 2011, to prohibit residential accommodation, including shop top housing on the subject land.

The inclusion in the LEP of such a provision cannot be supported because it would effectively create a sub zone prohibition, which is unlikely to be supported by the NSW Parliamentary Counsel's Office.

Council staff have been working with the Proponent and land owner over a period of time to determine an acceptable development outcome for the site, suggesting an RE2 Private Recreation zone, as a more appropriate zone having regard for its location, and their expressed objective for some small-scale commercial outcome on the site.

Notwithstanding this advice, the revised Planning Proposal request maintains the landholder's original objective to achieve a full business/commercial outcome for the site.

### **Existing planning strategies and controls**

Relevant legislative requirements are:

#### **1. Environmental Planning and Assessment Act, 1979**

*Part 1.3 Objects of the Act.* The relevant objectives of the Act are:

- (b) *‘to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment’;*
- (c) *‘to promote the orderly and economic use and development of land’.*

*Part 3: Planning Instruments.* This part sets out the legal requirements for preparing and making of environmental planning instruments, including amending local environmental plans (LEPs).

#### **2. State Environmental Planning Policies**

Of relevance to the Planning Proposal are:

- *SEPP No. 36 Manufactured Housing Estate.*

The SEPP aims to facilitate manufactured housing on certain land on which caravan parks are permitted as a contemporary form of medium density housing.

An assessment of the planning proposal request against the requirements of the *Policy* is provided in the Assessment section of the report.

- *SEPP (Coastal Management) 2018.*

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone. *Clause 10 Development on certain land within coastal wetlands*, and *Clause 11 Development on land in proximity to coastal wetlands* of the policy are relevant to the proposal.

An assessment of the planning proposal request against the requirements of the *Policy* is provided in the Assessment section of the report.

- *SEPP 55 Remediation of Land*

This policy specifies that the consent authority must not consent to the carrying out of any development unless it has considered whether the land on which the development is proposed is contaminated and/or is required to be remediated for its intended use.

An assessment of the planning proposal request against the requirements of the *Policy* is provided in the Assessment section of the report.

There are no inconsistencies with the SEPPs with the Planning Proposal. Refer **Attachment 2** of the report for an assessment of the consistency of the Planning Proposal against relevant State Environmental Planning Policies (SEPPS).

3. Policy Directions for Plan Making - Ministerial Directions under Section 9.1 (EP&A Act, 1979)

All council's must follow certain directions when preparing planning proposals for new and amending LEPs. Relevant applicable Directions are:

- 1.1 Business and Industrial Zones
- 1.2 Rural Zones
- 2.2 Coastal Management
- 2.6 Remediation of Contaminated Land
- 4.4 Planning for Bushfire Protection
- 5.10 Implementation of Regional Plans

The Planning Proposal is inconsistent with a number of Ministerial Directions. Refer **Attachment 3** of the report for an assessment of consistency of the Planning Proposal against relevant Ministerial Directions.

**4. NSW Rural Fire Service Planning for Bushfire Protection (PBP) (2019)**

PBP identifies best practice for developing in bush fire prone areas. NSW planning law requires all new development on bush fire prone land to be done in accordance with PBP.

A review has been conducted of Planning for Bush Fire Protection 2019 and included in the Assessment section of the report.

**5. North Coast Regional Plan 2036**

This plan encompasses a vision, goals and actions to deliver greater prosperity for living, working and visiting the region. All levels of government are required to cooperate to deliver the plan to deliver on-ground outcomes. Council is required to ensure compliance with the plan prior to preparing a planning proposal to rezone land.

Relevant Directions are:

- Direction 1: Deliver environmentally sustainable growth
- Direction 6: Develop successful centres of employment.
- Direction 7: Coordinate the growth of Regional Cities.
- Direction 8: Promote the growth of Tourism

Relevant Planning Principles for guiding growth on the North Coast are:

- Principle 1: Direct growth to identified urban growth areas i.e. within the UGA.
- Principle 2: Manage the Sensitive Coastal Strip
- Principle 3: Provide great places to live and work in a unique environment.

Relevant map layers are:

- Coastal Strip
- Urban Growth Area (UGA) boundary

An assessment of the Planning Proposal request against the requirements of the *North Coast Regional Plan 2036* is provided in the Assessment section of the report.

**6. Port Macquarie-Hastings Urban Growth Management Strategy 2036**

The *Port Macquarie-Hastings Urban Growth Management Strategy 2036* has been endorsed by the NSW State Government (November 2018).

The strategy aims to achieve well planned growth in the right places, to create a more diverse and prosperous economy and maintain a healthy environment and great places to live.

Further detail, including an assessment of the planning proposal request against the requirements of the *Strategy* is provided in the Assessment section of the report.

**7. Port Macquarie-Hastings Local Environmental Plan 2011**

The plan sets out the local environmental planning provisions for land in Port Macquarie-Hastings in accordance with the relevant standard environmental planning instrument under section 33A of the Act.

The land is currently zoned RU1 Primary Production. Relevant LEP development standards and controls are discussed in the Assessment section of the report.

### Planning Proposal Assessment

Council, as the Planning Proposal Authority under the NSW *Environmental Planning and Assessment Act 1979* is responsible for assessing and preparing planning proposals which seek to amend the local environmental planning instrument (LEP).

Consistent with state and local government guidelines, the progression of the Planning Proposal for the subject land is reliant on Council's assessment and determination of the strategic and site specific merit of the Planning Proposal. This assessment is based on the Department's '*A guide to preparing planning proposals*' and Council's *Planning Proposal Policy (2019)*.

The following assessment is based on the Proponent's amended request submitted 19 February 2020.

#### A. Does the proposal have strategic merit?

##### 1. *Will it give effect to the North Coast Regional Plan 2036?*

The North Coast Regional Plan 2036 identifies three (3) Principles for guiding growth on the North Coast.

##### Principle 1: Direct Growth to identified Urban Growth Areas (UGA).

*To achieve a balance between urban expansion and conservation of natural and environmental assets, the regional plan identifies the limits to urban growth for each local government area. The UGAs help to maintain the distinctive character of our local communities; direct growth away from significant farmland and sensitive ecosystems, and enable efficient planning for infrastructure and services.*

#### **Comment:**

Lot 516 is not located within the Urban Growth Area for Port Macquarie-Hastings. Importantly, it was omitted from the original conversion of the Crestwood area from rural to urban due to its low lying nature, irregular position extending into the Lake Innes Nature Reserve, and suitability for stormwater detention. The landholder also sought & received staged relief from developer contributions for open space by dedicating land for open space and establishing a playground (which adjoins Lot 516 to the west).

The extent of stormwater and open space dedication is shown in Figure 6.



Figure 6: Nearmap 2019 image of the vacant residue site (right of centre), and Council playground and drainage reserve (left and centre)).

The Proponent has undertaken an assessment against the Urban Growth Area Variation Principles in the Regional Plan as required by the NSW government. The Proponent's view is that the request is reasonable having regard for the variation principles and complimentary to adjoining residential development.

Council staff agree that the Proponent's assessment is able to demonstrate some consistency with the relevant criteria. However, Council staff do not agree that all UGA Principles are satisfied. Particular inconsistencies include:

UGA Principle 1 - The intent of the *North Coast Regional Plan 2036* in relation to new commercial precincts outside of centres. The regional plan provides that any proposed new commercial precincts, outside of centres, will be of an appropriate size and scale relative to the area they will be servicing. They should demonstrate how they will deliver positive social and economic benefits for the wider community and maintain the strength of the regional economy. Proposals for new commercial centres will need to demonstrate how they respond to retail supply and demand; respond to innovations in the retail sector; maximise the use of existing infrastructure (including public transport and community facilities) commensurate with the scale of the proposal; and enhance the value of the public realm.

The proponent has provided an "*Initial Business Supply and Demand Review*" (prepared by Land Dynamics Pty Ltd) to support their amended rezoning. The Review contends that there is un-serviced area west of Ocean Drive in the Southern portion of Port Macquarie, and that a new proposed B1 Neighbourhood Centre zone at Crestwood would not be in competition with the Port Macquarie CBD or other local centres given the level of growth in the area.

The Proponent has marked up an extract of Council's UGMS Retail Hierarchy and Business Centres Map, refer Figure 7, suggesting that "*the site varies from the main*

centre of Port Macquarie, and due to the size, location and likely nature, is not in competition". It is also contended that rezoning to neighbourhood business is proposed to fill a gap in Council's Hierarchy of Business Centres in the southern Port Macquarie area.

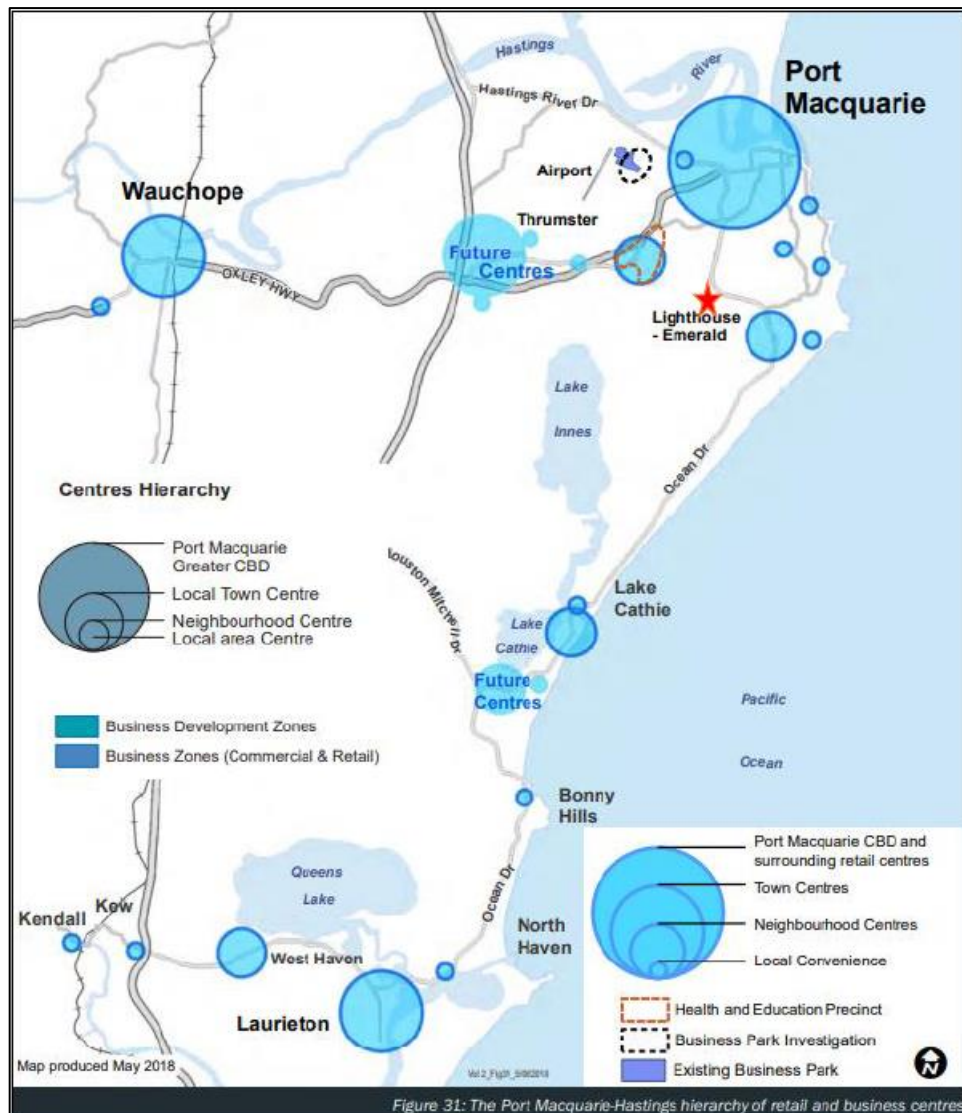


Figure 1 – Extract UGMS Retail Hierarchy and Business Centres Figure 31 (source: [www.pmhc.nsw.gov.au](http://www.pmhc.nsw.gov.au))

Figure 7: Extract from Proponent's Business Supply and Demand Review.

However, it is not accepted that there are compelling reasons for a new middle-sized, out-of-centre, business zone at Crestwood, or that the area is experiencing significant increases in population and real income, as stated by the Proponent, sufficient to justify introducing a new retail centre in competition with existing centres. The area is low density in character and well serviced by both small and larger retail offers at Tacking Point, Lighthouse Plaza, Shelly Beach and Flynn's Beach.

Staff have suggested zone RE2 Private Recreation to the Proponent as a more appropriate zone for the site having regard for the constraints to residential development and the low density amenity of the adjoining residential area. A private recreation zone also offers opportunities for a commercial outcome on the site,

satisfying the landholder's expectations for small scale food and drink premises and access to high quality walking and cycling trails and the natural environment of the Lake Innes Nature Reserve.

Principle 2: Manage the Sensitive Coastal Strip.

*The coastal strip (or Zone) comprises land east of the Pacific Highway. The area is ecologically diverse, with wetlands, estuaries, significant farmland and areas of local, state and National significance. The area is also exposed to natural hazards and risks such as flooding, coastal inundation, erosion and recession. To safeguard the strip, the regional plan limits development in this area, and only minor and contiguous variations to the boundary will be considered by the State government.*

**Comment:**

Lot 516 and the adjoining Council owned land are located within the Coastal Strip as defined in the Regional Plan. The area is also outside the UGA. However, a minor variation to the growth area boundary is supported in this location on the basis that updating planning controls as recommended in the report is consistent with vision and guiding principles in the Regional Plan.

Principle 3: Provide Great Places to Live and Work in a Unique Environment.

*The regional plan emphasises the need for cities and centres to be the focus for housing diversity, jobs and activities to reduce pressure on the environment and maximise the advantages of the North Coast's unique environment.*

**Comment:**

As noted above, Council's adopted UGMS Centres Hierarchy does not support a neighbourhood centre in this location. This is consistent with Direction 6 of the Regional Plan, which provides that proposed new commercial precincts, outside of centres, will be:

- of an appropriate size and scale relative to the area they will be servicing;
- deliver positive social and economic benefits for the wider community and maintain the strength of the regional economy;
- respond to retail supply and demand;
- respond to innovations in the retail sector;
- maximise the use of existing infrastructure (including public transport and community facilities) commensurate with the scale of the proposal; and
- enhance the value of the public realm.

For the reasons expressed above in relation to Principles 1 and 3 (or under the Variation Principles assessment), Council staff have concerns about the impact on Council's adopted retail hierarchy, of a proposed 5000sqm local centre in this location. However, a potential rezoning of the site to RE2 Private Recreation will provide the proponent with small scale retail and nature-based development opportunities in keeping with the low density residential nature of the area, its proximity to the national park, and access to passive recreational opportunities.

2. Will it give effect to a relevant local strategic planning statement/strategy that has been endorsed by the department (i.e. Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036)?

There is no Local Strategic Planning Statement (LSPS) for Port Macquarie-Hastings currently. As detailed above the proposal is inconsistent with the endorsed local growth management strategy for Port Macquarie-Hastings UGMS 2017-2036.

Council's policy in the UGMS is to promote a clear hierarchy of centres, ranging from the Port Macquarie CBD and Settlement City to local neighbourhood centres. The aim is to ensure each centre is centrally located to service its catchment population. Analysis undertaken for the UGMS confirms that current and planned centres are well placed to accommodate forecast growth in retail and commercial, with the right amount of zoned land to 2036. In summary, there is scope within Council's adopted and planned Hierarchy of Centres as outlined in the UGMS to accommodate forecast growth to 2036. A new, out of centre, retail and commercial area at Crestwood is therefore unable to be supported.

**B. Does the proposal have site-specific merit, having regard to the following?**

1. *The natural environment (including known significant environmental values, resources or hazards)*

The site is within a designated bushfire prone area, and vulnerable to bushfire hazard and risk. Future development of the site will be required to comply with Planning for Bushfire Protection 2019.

As detailed elsewhere in the report, the site is uniquely located to complement the adjoining national park, and expand passive tourist and recreational opportunities for the developer and landholder.

2. *The existing uses, approved uses, and likely future uses of land in the vicinity of the proposal*

The site is currently vacant rural zoned land in private ownership.

It is agreed that the current zoning is unsuitable given its size, and location within the established residential locality of Crestwood. Council staff have worked with the Proponent to achieve a development outcome for the site. However, the landholder's objective for a neighbourhood business and commercial zone is difficult to justify from a strategic and site specific merit perspective, and is not supported.

Instead, staff have suggested Zone *RE2 Private Recreation*, which is intended to accommodate a wide range of recreational opportunities and facilities, is considered to be particularly complementary to the sites unique location, and prospect for passive nature based recreation and tourism.

The RE2 Private Recreation zone would open up a range of potential commercial development opportunities to the landholder, with permitted land uses as follows:

*Building identification signs; Business identification signs; Camping grounds; Caravan parks; Centre-based child care facilities; Community facilities; Emergency services facilities; Environmental facilities; Environmental protection works; Information and education facilities; Kiosks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation*

*facilities (outdoor); Registered clubs; Respite day care centres; Restaurants or cafes; and Take away food and drink premises.*

Residential development of any type is prohibited in the zone.

3. *The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision*

The site is readily accessed and serviced by existing infrastructure in Crestwood. The site is accessed via Crestwood Drive Sewerage and Water Supply is available to the site.

Stormwater drainage: Lot 516 adjoins Council owned and managed drainage reserve (Lot 319 DP1214443) to the west, dedicated as part of the Crestwood residential development. The reserve drains the eastern and southern slopes of the larger Crestwood estate; from Ocean Drive in the north-east to Richwood Ridge, Verde RTT and Crestwood Drive (south).

Asset Protection Zone (APZ): The proponent's request as submitted and subsequently amended, intends that the NPWS reserve and adjoining playground area (Council owned) will form the substantial basis for any future APZ for bushfire purposes required at the time of development of the land in question.

Council staff have confirmed to the proponent and landholder that consistent with Council policy, it will not accept any APZ burden or responsibility for residential development over publicly owned land. This has been discussed in length with the proponent, and is key to recommendations in relation to a suitable zoning for the site. Importantly, any type of future residential development of the site will not be supported by Council on the basis that residential development of the site will necessarily require the use of publicly owned land for bushfire asset protection. In summary APZs for any proposed residential development of the site cannot be contained wholly within the boundaries of the site.

**C. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs)?**

State Environmental Planning Policies relevant to the Planning Proposal request are:

- SEPP No. 36 Manufactured Housing Estate

The SEPP aims to facilitate manufactured housing on certain land on which caravan parks are permitted as a contemporary form of medium density housing.

A change of zone will affect permissibility of MHE development under the SEPP. If zoned to B1 Neighbourhood Centre, MHE development will not be permissible. If zoned to RE2 Private Recreation as proposed in the report, MHE development will be permitted with consent.

However, MHE development is unattainable on the site based on designated 'Special purpose development' requirements under NSW Rural Fire Service Guidelines. The

designation imposes additional APZ and mitigation requirements for vulnerable forms of development, which cannot be achieved on the site.

- SEPP (Coastal Management) 2018.

The aim of this Policy is to manage development in the coastal zone and protect the environmental assets of the coast. The subject land is identified as being located within the 'Coastal Zone', as the land is identified by the 'Coastal Wetlands and Littoral Rainforests Area Map' - 'Proximity Area for Coastal Wetlands'. The following controls, are relevant:

Division 1 – Coastal wetlands and littoral rainforests area

*Clause 10 – Development on certain land within coastal wetlands and littoral rainforests area.* The proposed development is not within a coastal wetland or littoral rainforest area and consequently the provisions of this clause are not applicable.

*Clause 11 – Development on land in proximity to coastal wetlands or littoral rainforest.* The site is located within proximity to land mapped as 'Coastal Wetlands'. An assessment of the impact in regard to the provisions of this Policy will be required at the time of future development of the land on the impact on: the biophysical, hydrological or ecological integrity of the adjacent wetland. Further, assessment of stormwater management will be necessary at the time of development of the site to assess the impact on the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

- SEPP 55 Remediation of Land

This policy specifies that the consent authority must not consent to the carrying out of any development unless it has considered whether the land on which the development is proposed is contaminated and/or is required to be remediated for its intended use.

The site is not mapped as being subject to potential contamination from past land uses. The site has been filled and raised to a level consistent with the design level of Crestwood Drive. The rezoning proposal states that filling has occurred in association with subdivision works for the adjoining residential estate.

Preliminary geotechnical and contamination assessment reports will be required at the time of development applications for the land if rezoned.

A detailed assessment of consistency with the SEPPs is included at **Attachment 2**.

**D. Is the Planning Proposal request consistent with applicable Ministerial Directions?**

A detailed assessment of the consistency of this Planning Proposal with Ministerial Directions applying within the Port Macquarie-Hastings local government area is in **Attachment 3**.

There are some minor inconsistencies, which require the agreement of an authorised officer of the Department of Planning, Industry & Environment. The minor inconsistencies are:

- 1.1 Business and Industrial Zones.

The objective of the direction is to encourage employment growth in suitable locations, protect employment land, and support the viability of existing centres. The direction states that a planning proposal must:

- a) *give effect to the objectives of this direction,*
- b) *retain the areas and locations of existing business and industrial zones,*
- c) *not reduce the total potential floor space area for employment uses and related public services in business zones,*
- d) *not reduce the total potential floor space area for industrial uses in industrial zones, and*
- e) *ensure that proposed new employment areas are in accordance with a strategy that is approved by the Secretary of the Department of Planning and Environment.*

**Comment:** A proposed new *B1 Neighbourhood Centre* at Crestwood, is contrary to the UGMS, and therefore inconsistent with the Direction.

- 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 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, or, in this case, of a minor nature.

**Comment:** In this case it is considered that an inconsistency is justified because the land is clearly isolated from larger areas of rural zoned land, is not used for rural purposes, and is inappropriate in the location as a rural residue.

- 1.5 Rural Lands

The objectives of the direction are to protect and assist in the management of rural lands and the agricultural potential of rural land; facilitate its orderly and economic use and development; and minimise land use conflict and fragmentation; and encourage sustainable land use practices. The direction applies to preparation of a planning proposal that will in this case affect rural land.

A Planning Proposal must be consistent with relevant strategic plans; consider the agricultural significance of the land affected by the planning proposal; consider the natural and physical constraints of the rural land in question; and promote and prioritise rural investment opportunities to support farmers; and prevent fragmentation of rural land. It must also demonstrate that it minimises rural land fragmentation and land use conflict.

**Comment:** The Planning Proposal is considered consistent having regard for the unsuitability of the current rural zoning of the site, its isolated location, and surrounding land use pattern.

- 2.2 Coastal Management

The objective of the direction is to protect and manage coastal areas of NSW. The proposal applies to planning proposal in relation to land that is within the coastal zone.

A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:

- a) *within a coastal vulnerability area identified by the State Environmental Planning Policy (Coastal Management) 2018; or*
- b) *that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:*
  - i. *by or on behalf of the relevant planning authority and the planning proposal authority, or*
  - ii. *by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.*

*Subclause 6 - A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by the State Environmental Planning Policy (Coastal Management) 2018.*

A Planning Proposal may be inconsistent with this direction only if the relevant authority for the planning proposal can satisfy the Secretary of the Department of Planning and Environment that the provisions of the planning proposal that are inconsistent are justified by a strategy which gives consideration to the direction, or in accordance with an endorsed regional plan; or of minor significance.

**Comment:** In this case the inconsistency is considered minor having regard for the intended recreational use of the land.

- 2.6 Remediation of Contaminated Land

The objective of this direction is to reduce the risk of harm to human health and the environment by ensuring that contamination and remediation are considered by planning proposal authorities.

The direction applies in this case to:

*Clause 2 [c] - the extent to which it is proposed to carry out development on it for residential, educational, recreational or childcare purposes, or for the purposes of a hospital – land:*

- i) in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
- ii) (ii) on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

*Clause 4 - A planning proposal authority must not include in a particular zone (within the meaning of the local environmental plan) any land specified in paragraph (2) if the inclusion of the land in that zone would permit a change of use of the land, unless:*

- a) the planning proposal authority has considered whether the land is contaminated, and*
- b) if the land is contaminated, the planning proposal authority 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 proposal authority is satisfied that the land will be so remediated before the land is used for that purpose.*

*In order to satisfy itself as to subclause 4(c), the planning proposal authority may need to include certain provisions in the local environmental plan.*

*Clause 5 - Before including any land specified in paragraph (2) in a particular zone, the planning proposal authority is to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.*

**Comment:** An inconsistency exists. The site is not known to be contaminated, however the land has been filled, and in order to satisfy itself as to the direction, Council will need to consider a report consistent with Clause 5 of this Direction prior to forwarding the Planning Proposal to the Department for a Gateway determination.

- 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. AS referenced in the report, the site is designated bushfire prone land 'buffer'.

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

**Comment:** 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. Consultation with the RFS will occur following any Gateway Determination for a Planning Proposal in relation to the site.

Subclause (5) requires that the Planning Proposal 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. If this is the case, then this is a further inconsistency.

- 5.10 Implementation of Regional Plans

The objective of this direction is to give legal effect to the vision, land use strategy, goals, directions and actions contained in Regional Plans.

**Comment:** A Planning Proposal must be consistent with a regional plan. In this case, proceeding with a Planning Proposal as recommended in the report is considered to achieve the overall intent of the regional plan, its vision, goals and directions, or actions.

- 6.3 Site Specific Provisions

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

*Clause 4 - A planning proposal that will amend another environmental planning instrument in order to allow a particular development proposal to be carried out must either:*

- a) allow that land use to be carried out in the zone the land is situated on, or*
- b) rezone the site to an existing zone already applying in the environmental planning instrument that allows that land use without imposing any development standards or requirements in addition to those already contained in that zone, or*
- c) allow that land use on the relevant land without imposing any development standards or requirements in addition to those already contained in the principal environmental planning instrument being amended.*

**Comment:** A Planning Proposal prepared on the basis of the Proponent's request is inconsistent with the direction. The inconsistency arises when a planning proposal proposes to restrict an otherwise permitted use in a zone. In the case of the Proponent's request, the Proponent seeks to restrict residential development, which is ordinarily permitted in zone B1 Neighbourhood Centre under the Standard LEP template.

**E. Will the proposal give effect to any endorsed local strategies or strategic plans?****Towards 2030 Community Strategic Plan**

Towards 2030 Community Strategic Plan is an overarching 10-year plan prepared by Council and the community, and based on community priorities. The plan outlines the community's objectives for each of the themes identified in the plan:

- > Leadership and Governance
- > Your Community Life
- > Your Business and Industry
- > Your Natural and Built Environment

Proceeding to rezone the subject land to RE2 Private Recreation as recommended in the report builds on, and implements the objectives and community aspirations expressed in the plan, particularly:

- A collaborative community that works together and uses opportunities for community participation in decision making that is defined as ethically, socially and environmentally responsible.
- A healthy, inclusive and vibrant community. Actively participating in inclusive community activities
- The Port Macquarie-Hastings region is a successful place that has a vibrant, diversified and resilient regional economy for people to live, learn, work, play and invest.
- A connected, sustainable, accessible community and environment that is protected now and into the future.

**Economic Development Strategy 2017 – 2021**

Proceeding with a Planning Proposal to rezone the land RE2 Private Recreation as discussed in the report builds on the vision for Port Macquarie-Hastings to be a successful tourism destination, and region with a vibrant, diversified and resilient regional economy for people to live, learn, work, play and invest.

**Port Macquarie-Hastings Urban Growth Management Strategy 2036**

Discussed previously in this report.

**F. Environmental, social and economic impact**

1. *Is there a 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 *Biodiversity Conservation Act 2016* contains measures to identify and protect critical habitat or threatened species, populations or ecological communities, or their habitats, and to identify and mitigate key threatening processes.

Based on the status of the proponents site as vacant, filled, and managed seeded grassland, and the controlled nature of the adjoining public (Council) land, there are no known or anticipated considerations at this time. A referral to the NSW

Biodiversity Conservation Division (Planning Industry and Environment) is not considered necessary.

2. *Are there any other likely environmental effects as a result of the proposal and how will they be managed?*

A significant bushfire risk exists on the site. NSW Rural Fire Service Guidelines “*Planning for Bushfire Protection 2019*”, effective from March 2020, will apply to future development of the site.

Council staff have discussed the bushfire risk in length with the Proponent, noting that any form of residential development and commercial zoning is highly unlikely to satisfy the requirements for containment of APZs on-site.

A decision by Council in favour of proceeding with a Planning Proposal as per Option 2 and Option 3 of the report will require further consultation with the NSW Rural Fire Service.

3. *Has the proposal adequately addressed any social and economic effects?*

The potential economic effects of the Proponent’s proposal have been addressed in the preceding Strategic Merit Assessment of the report. Social impacts associated with the Council recommended Planning Proposal for an RE2 Private Recreation zoning of the land are considered to be positive.

Staff have noted the developing nature of Crestwood area and its approaching completion, with only around 8 lots currently retained by developers. Housing is predominantly new, low rise, and single dwelling/low density in character.

In summary, a Council initiated Planning Proposal as described and recommended here will deliver complementary development outcomes for the landholder and the broader community, with positive social and economic benefit.

### **Recommended Planning Proposal for Council support**

As described in the report, it is recommended that Council support the preparation and forwarding of an amended Planning Proposal to change the existing planning controls over the subject land, and adjoining publicly owned land for a Gateway determination. The intended objectives of the Planning Proposal are to:

- resolve the current historic rural zoning for the residue land at Crestwood, comprising Lot 516 DP 1261705 (privately owned), Lot 319 DP1214443 (Public stormwater infrastructure), and Lot 497 DP1237901 (Publicly owned recreation area);
- deliver a development outcome for the landholder that is complementary to the site’s unique physical location and characteristics;
- complement adjoining natural and recreational attributes;
- promote active and passive tourism and community open spaces outside urban growth areas, consistent with the North Coast Regional Plan *Direction 1 Deliver Environmentally sustainable growth; and Direction 8 Promote the growth of tourism.*

A summary of the current and proposed planning control provisions is provided in Table 1 and Table 2.

Table 1: Existing Planning Controls

Existing	Lot 516 DP1261705	Lot 497 DP1237901	Lot 319 DP121443
<b>Tenure</b>	Private	Public / Council	Public / Council
<b>Land Zone</b>	RU1 Primary Production	Pt R1 General Residential; Pt RU1 Primary Production	R1 General Residential
<b>Minimum Lot Size</b>	40ha	Pt 450sqm; Pt 40ha	-
<b>Floor Space Ratio</b>	-	Pt 0.65:1 (R1 General Residential zone)	-
<b>Height of Building</b>	-	Pt 8.5m. (R1 General Residential zone)	-

Table 2: Proposed Planning Controls

Proposed	Lot 516 DP1261705	Lot 497 DP1237901	Lot 319 DP121443
<b>Tenure</b>	No change	No change	No change
<b>Land Zone</b>	RE2 Private Recreation	RE1 Public Recreation	SP2 Infrastructure (Stormwater)
<b>Minimum Lot Size</b>	5000 sqm	3000 sqm	-
<b>Floor Space Ratio</b>	1. 0.65:1	-	-
<b>Height of Building</b>	2. 8.5m 3.	-	-

The existing and recommended proposed zone layout is included at Figure 8 and Figure 9.

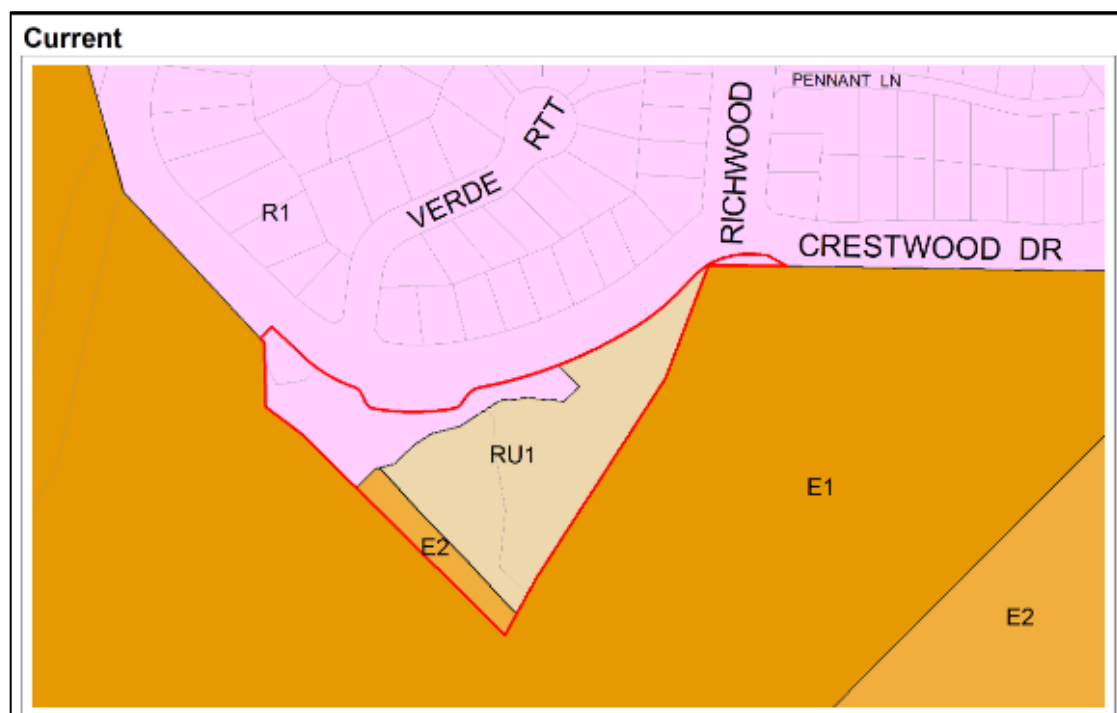


Figure 8: Existing Zone Layout (LEP 2011)

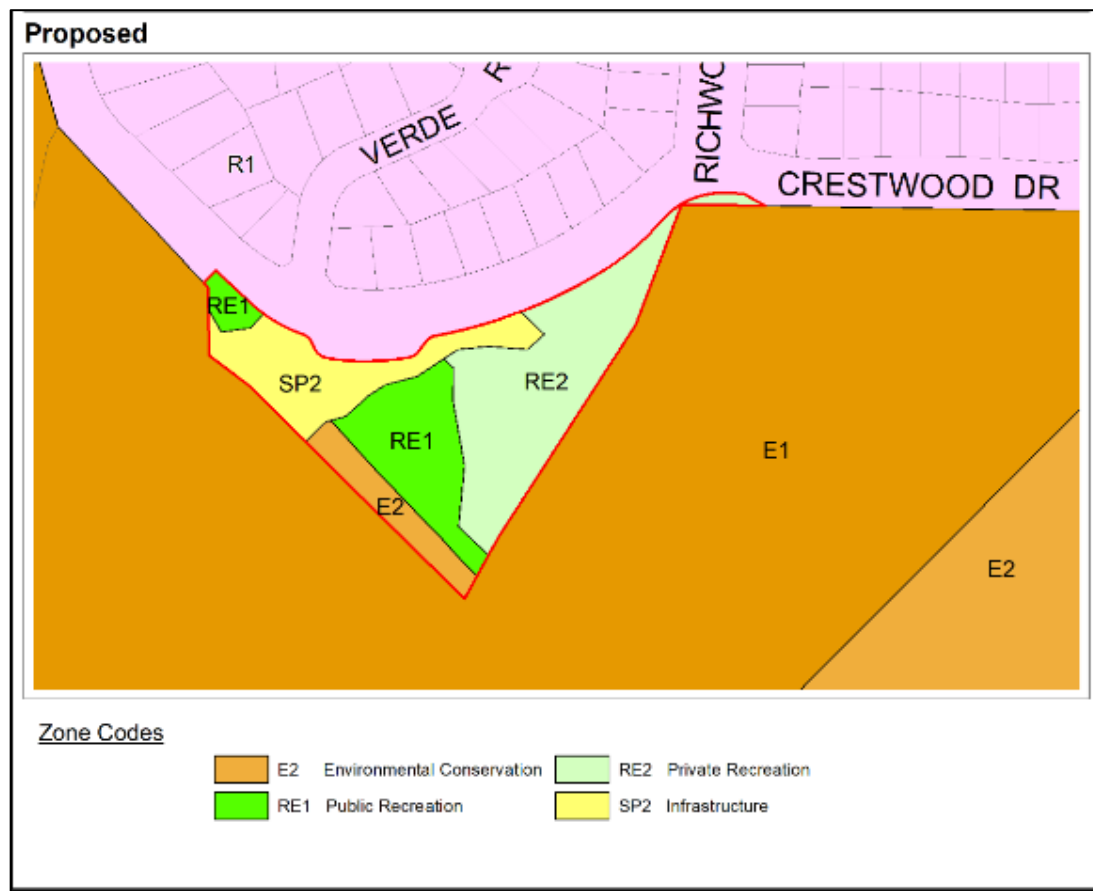


Figure 9: Recommended Zone Layout.

### Options

1. Do nothing. The subject land and adjoining Council owned land would remain zoned rural and residential.
2. Resolve to prepare a Planning Proposal to rezone Lot 516 DP DP1261705 to B1 Neighbourhood Centre on the basis of the Proponent's amended request.
3. Resolve to notify the Proponent that Council does not support their request for a neighbourhood business zone, and that it will instead support a variation to the proposal to rezone Lot 516 DP1261705 to RE2 Private Recreation, and incorporate the adjoining Council owned land to RE1 Public Recreation and SP2 Infrastructure (Stormwater), in line with the discussion and recommendations in this report.

Option 1 does not provide any scope for development of the land held in private ownership as proposed in the request.

Option 2 is not recommended for the reasons outlined in the report. Additionally, it is not considered that the Proponent's proposal to rezone the land to B1 Neighbourhood Centre demonstrates strategic and site-specific merit in accordance with the Strategic Merit Test outlined in the Department of Planning & Environment's *A Guide to preparing planning proposals* and Council's *Planning Proposal Policy* (2019).

Option 3 is recommended based on discussions with the Proponent, and allows for some small-scale business and commercial development outcomes to be undertaken on the site, complementary to the adjoining land use zones at Crestwood.

### **Community Engagement and Internal Consultation**

If progressed, community engagement in relation to any Planning Proposal prepared in relation to the subject site, will need to be carried out consistent with any Gateway Determination issued by the NSW government and Council's *Community Participation Plan (2019)*.

There has been internal consultation involving Development and Environment staff, Infrastructure Staff and Strategy and Growth staff.

### **Planning and Policy Implications**

The planning process for making an amending local environmental plan (LEP) to alter or make changes to land use zones or development controls involves preparation of a Planning Proposal document that explains the intended effect of a proposed amending LEP.

A LEP is a legal instrument, and a statutory document. The plan must give effect to the objectives of the EP&A Act, the North Coast Regional Plan 2036, and the council and community derived *Community Strategic Plan (CSP)*.

The Department of Planning Guidelines for planning proposals and local environmental plans emphasise the importance of strategic planning in determining whether the land is appropriate for the identified future use, providing certainty for future landowners and investors, and ensuring that future users are not exposed to unexpected or unreasonable development costs.

Under the Guidelines, Council has a responsibility to provide a level of certainty to the government Gateway. This means ensuring that the land is suitable and acceptable for the proposed use and that the identified land can be reasonably and practically developed for its intended purpose. It is not appropriate to defer assessment of relevant environmental, social, economic and other site specific merit considerations, or obligations to later development applications under Part 4 of the EP&A Act.

Formal notification of any request for the preparation of a Planning Proposal that is not supported by the Council is regulated under the *Environmental Planning and Assessment Regulation 2000*. Council is required to notify a proponent in writing as soon as practicable after a decision not to proceed.

The proponent then has 42 days, if desired, to request that the relevant Planning Panel or the Commission review the proposal. A guide to preparing local environmental plans sets out lodgement requirements, including fees and information a proponent must provide to the Department in order for a review to be undertaken. Only the same application that was initially presented to Council will be reviewed by the Planning Panel or Commission. The Planning Panel or Commission will

undertake a strategic and site specific merit assessment of the rezoning review proposal.

**Financial and Economic Implications**

A Stage 1 rezoning fee of \$15,290 has been paid consistent with Council's Fees and Charges.

Resources expended in pre-lodgement discussions, review and reassessment of revised and amended information, staff-proponent negotiations, and reporting requirements since 2017 has expended the fee paid by the landowner.

A decision by Council in favour of Option 3 above may negate payment of the full Stage 2 rezoning fees by the Proponent, however it is considered that some payment should be made by the land owner as limited commercial development will be permitted on the site if the land is rezoned.

Proceeding on the basis of option 3 also involves Council becoming the Proponent for the proposal.

Prior to forwarding any Planning Proposal for a Gateway determination, a stage 1 contamination assessment is required under *Ministerial Direction 2.6 Remediation of Contaminated Land*, and it is considered that this, and any other studies required as a condition of the Gateway should be jointly funded by the Proponent and Council.

**Attachments**

1. [Proponent's Planning Proposal Crestwood Drive, Port Macquarie \(February 2020\)](#)
2. [SEPP Assessment - Planning Proposal - Crestwood Drive, Port Macquarie \(May 2020\)](#)
3. [Section 9.1 Ministerial Direction Assessment - Planning Proposal Crestwood Drive, Port Macquarie \(May 2020\)](#)

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**13.04 PLANNING PROPOSAL PP2017 - 4.1: LOT 516 DP1261705,  
CRESTWOOD DRIVE, PORT MACQUARIE**

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Councillor Dixon declared a Non-Pecuniary, Significant Interest in this matter and left the meeting and did not participate in the meeting during the Council's consideration, the time being 8:53pm.

**MOTION**

*MOVED: Pinson/Griffiths*

That Council:

1. Support the Planning Proposal application in relation to Lot 516 DP 261705, Crestwood Drive, Port Macquarie, requesting a rezoning of the land from RU1 Primary Production to B1 Neighbourhood Centre for the following reasons:
  - a) The proposed Planning Proposal will have:
    - i) A positive social benefit to the local residents of Crestwood and an increase in the neighbourhood amenity.
    - ii) A positive impact on the wider community, visitors and tourists, including users of the Googik Track.
    - iii) A positive economic impact on the local economy and provide employment opportunities throughout construction through to operation.
  - b) The Planning Proposal demonstrates strategic and site-specific merit in accordance with the Strategic Merit Test outlined in the Department of Planning & Environment's A Guide to Preparing Planning Proposals.
  - c) There is the ability to accommodate necessary bushfire measures via the proposed caveat on the land preventing residential uses including shop top housing.
2. Prepare a Planning Proposal to rezone land as shown in Figure 1 of this report, pursuant to section 3.33 of the *Environmental Planning and Assessment Act 1979*, for the amendment of the provisions of *Port Macquarie-Hastings Local Environmental Plan 2011*, in relation to Lot 516 DP1261705 (private), Lot 497 DP1237901 (Council owned and managed), and Lot 319 DP1214443 (Council owned and managed) at Crestwood to:
  - a) Amend the Land Zoning Map to rezone:
    - i) Lot 516 from RU1 Primary Production to B1 Neighbourhood Centre to facilitate business, recreation and tourism uses;
    - ii) Lot 497 from part R1 General Residential and part RU1 Primary Production to RE1 Public Recreation to reflect the community and recreational use of the land;
    - iii) Lot 319 from part R1 General Residential to SP2 Infrastructure (Stormwater) to reflect Council's operational use of the land;
    - iv) Amend the Height of Building Map in relation to Lot 516 to impose a maximum Height of Building of 8.5m;
    - v) Amend the Floor Space Ratio Map in relation to Lot 516 to impose a maximum Floor Space Ratio of 0.65:1.
3. Forward the Planning Proposal described in point 2 above to the NSW Department of Planning, Industry and Environment for a Gateway Determination under Section 3.34 of the Environmental Planning & Assessment

- 
- Act 1979, and request that the Gateway Determination authorise Council to be the local plan-making authority.
4. Delegate authority to the Director Development and Environment to make any minor amendments to the Planning Proposal as a result of the issue of the Gateway Determination, prior to public exhibition of the Planning Proposal.

### **FORESHADOWED MOTION**

*MOVED: Levido/Turner*

That Council:

1. Not support the Planning Proposal application in relation to Lot 516 DP 261705, Crestwood Drive, Port Macquarie, requesting a rezoning of the land from RU1 Primary Production to B1 Neighbourhood Centre for the following reasons:
  - a) The proposed Planning Proposal could result in a development that is unacceptable in terms of economic and environmental impact, specifically:
    - i) The request proposes development of land which would be inconsistent with Object (b) of the Environmental Planning and Assessment Act, 1979.
    - ii) The request for approximately 5000m<sup>2</sup> of Neighbourhood Business zoned land at Crestwood is inconsistent with Council's Hierarchy of Business Centres as adopted in the Port Macquarie-Hastings Urban Growth Management Strategy 2017- 2036 and the subject land is not identified as a future Local Neighbourhood Centre;
    - iii) A commercial zoning of the land presents significant bushfire risk to life and property as a B1 Neighbourhood Centre zone would allow certain types of residential land uses, which Council is not able to prohibit.
  - b) The Planning Proposal is inconsistent with:
    - i) The North Coast Regional Plan 2036 Principles for urban growth, and Direction 6 Develop successful centres of employment (new commercial precincts, outside of centres, to maintain the strength of the local economy);
    - ii) Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036 (UGMS) - Hierarchy of Business Centres;
    - iii) Ministerial Directions 1.1 Business and Industrial Zones; 4.4 Planning for Bushfire Protection; 5.10 Implementation of Regional Plans; and 6.3 Site Specific Provisions.
    - iv) The Planning Proposal does not demonstrate strategic and site-specific merit in accordance with the Strategic Merit Test outlined in the Department of Planning & Environment's A Guide to preparing planning proposals.
    - v) The Planning Proposal Application is inconsistent with Council's Planning Proposal Policy as it is a proposal which is:
      - ☐ Inconsistent with the UGMS, and Council's established Hierarchy of Business Centres;
      - ☐ Conflicts with Council's economic development objectives for employment and industry.
2. Prepare a Planning Proposal to rezone land as shown in Figure 1 of this report, pursuant to section 3.33 of the Environmental Planning and Assessment Act 1979, for the amendment of the provisions of Port Macquarie-Hastings Local

Environmental Plan 2011, in relation to Lot 516 DP1261705 (private), Lot 497 DP1237901 (Council owned and managed), and Lot 319 DP1214443 (Council owned and managed) at Crestwood to:

- a) Amend the Land Zoning Map to rezone:
  - i) Lot 516 from RU1 Primary Production to RE2 Private Recreation to facilitate recreation and tourism uses;
  - ii) Lot 497 from part R1 General Residential and part RU1 Primary Production to RE1 Public Recreation to reflect the community and recreational use of the land;
  - iii) Lot 319 from part R1 General Residential to SP2 Infrastructure (Stormwater) to reflect Council's operational use of the land;
  - iv) Amend the Height of Building Map in relation to Lot 516 to impose a maximum Height of Building of 8.5m;  
Amend the Floor Space Ratio Map in relation to Lot 516 to impose a maximum Floor Space Ratio of 0.65:1.
3. Forward the Planning Proposal described in point 2 above to the NSW Department of Planning, Industry and Environment for a Gateway Determination under Section 3.34 of the Environmental Planning & Assessment Act 1979, and request that the Gateway Determination authorise Council to be the local plan-making authority.
4. Delegate authority to the Director Development and Environment to make any minor amendments to the Planning Proposal as a result of the issue of the Gateway Determination, prior to public exhibition of the Planning Proposal.

#### **AMENDMENT**

*MOVED: Pinson/Griffiths*

That Council request the General Manager to schedule a briefing for Councillors to consider the merit of a zoning application of land in Lot 516 DP 261705 Crestwood Drive, Port Macquarie from RU1 primary production to B1 neighbourhood centre.

#### **THE AMENDMENT WAS PUT AND LOST**

*LOST: 2/5*  
*FOR: Griffiths and Pinson*

*AGAINST: Alley, Hawkins, Intemann, Levido and Turner*

#### **THE MOTION WAS PUT AND LOST**

*LOST: 2/5*  
*FOR: Griffiths and Pinson*

*AGAINST: Alley, Hawkins, Intemann, Levido and Turner*

#### **THE FORESHADOWED MOTION WAS PUT AND CARRIED**

*RESOLVED: Levido/Turner*

That Council:

1. Not support the Planning Proposal application in relation to Lot 516 DP 261705, Crestwood Drive, Port Macquarie, requesting a rezoning of the land from RU1 Primary Production to B1 Neighbourhood Centre for the following reasons:
  - a) The proposed Planning Proposal could result in a development that is unacceptable in terms of economic and environmental impact,

specifically:

- i) The request proposes development of land which would be inconsistent with Object (b) of the Environmental Planning and Assessment Act, 1979.
  - ii) The request for approximately 5000m<sup>2</sup> of Neighbourhood Business zoned land at Crestwood is inconsistent with Council's Hierarchy of Business Centres as adopted in the Port Macquarie-Hastings Urban Growth Management Strategy 2017- 2036 and the subject land is not identified as a future Local Neighbourhood Centre;
  - iii) A commercial zoning of the land presents significant bushfire risk to life and property as a B1 Neighbourhood Centre zone would allow certain types of residential land uses, which Council is not able to prohibit.
- b) The Planning Proposal is inconsistent with:
- i) The North Coast Regional Plan 2036 Principles for urban growth, and Direction 6 Develop successful centres of employment (new commercial precincts, outside of centres, to maintain the strength of the local economy);
  - ii) Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036 (UGMS) - Hierarchy of Business Centres;
  - iii) Ministerial Directions 1.1 Business and Industrial Zones; 4.4 Planning for Bushfire Protection; 5.10 Implementation of Regional Plans; and 6.3 Site Specific Provisions.
  - iv) The Planning Proposal does not demonstrate strategic and site-specific merit in accordance with the Strategic Merit Test outlined in the Department of Planning & Environment's A Guide to preparing planning proposals.
  - v) The Planning Proposal Application is inconsistent with Council's Planning Proposal Policy as it is a proposal which is:
    - ☐ Inconsistent with the UGMS, and Council's established Hierarchy of Business Centres;
    - ☐ Conflicts with Council's economic development objectives for employment and industry.
2. Prepare a Planning Proposal to rezone land as shown in Figure 1 of this report, pursuant to section 3.33 of the *Environmental Planning and Assessment Act 1979*, for the amendment of the provisions of *Port Macquarie-Hastings Local Environmental Plan 2011*, in relation to Lot 516 DP1261705 (private), Lot 497 DP1237901 (Council owned and managed), and Lot 319 DP1214443 (Council owned and managed) at Crestwood to:
- a) Amend the Land Zoning Map to rezone:
    - i) Lot 516 from RU1 Primary Production to RE2 Private Recreation to facilitate recreation and tourism uses;
    - ii) Lot 497 from part R1 General Residential and part RU1 Primary Production to RE1 Public Recreation to reflect the community and recreational use of the land;
    - iii) Lot 319 from part R1 General Residential to SP2 Infrastructure (Stormwater) to reflect Council's operational use of the land;
    - iv) Amend the Height of Building Map in relation to Lot 516 to impose a maximum Height of Building of 8.5m;
    - v) Amend the Floor Space Ratio Map in relation to Lot 516 to impose a maximum Floor Space Ratio of 0.65:1.
3. Forward the Planning Proposal described in point 2 above to the NSW

Department of Planning, Industry and Environment for a Gateway Determination under Section 3.34 of the Environmental Planning & Assessment Act 1979, and request that the Gateway Determination authorise Council to be the local plan-making authority.

4. Delegate authority to the Director Development and Environment to make any minor amendments to the Planning Proposal as a result of the issue of the Gateway Determination, prior to public exhibition of the Planning Proposal.

**CARRIED:** 7/0

**FOR:** Alley, Griffiths, Hawkins, Intemann, Levido, Pinson and Turner

**AGAINST:** Nil

Councillor Dixon returned to the meeting, the time being 9:52pm.

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### **13.05 POST EXHIBITION - AIRPORT BUSINESS PARK - PLANNING PROPOSAL AND DRAFT DEVELOPMENT CONTROL PLAN**

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Councillor Griffiths declared a Pecuniary Interest in this matter and left the room and was out of sight during the Council's consideration, the time being 9:52pm.

**RESOLVED:** Levido/Turner

That Council:

1. As a result of the consideration of submissions and consultation with public authorities, endorse the forwarding of the Airport Business Park Planning Proposal, as exhibited, to the NSW Department of Planning, Industry and Environment under Section 3.36 of the Environmental Planning and Assessment Act 1979, requesting that the Minister for Planning and Public Spaces draft a Local Environmental Plan to amend the Port Macquarie-Hastings Local Environmental Plan 2011 to give effect to the Planning Proposal.
2. Adopt the exhibited Draft Airport Business Park Development Control Plan provisions, incorporating changes as referred to in this report, as an amendment to the Port Macquarie-Hastings Development Control Plan 2013, to commence on notification of the Local Environmental Plan in 1 above, on the NSW Legislation website.
3. Request the General Manager to provide a future report on a Draft section 9.11 Airport Business Park Roads Contributions Plan, as described in this report, prior to development of the Business Park.
4. That all persons who lodged a submission be advised of Council's decision and provided with individual detailed responses to the specific issues raised in their submission.

**CARRIED:** 6/1

**FOR:** Alley, Dixon, , Hawkins, Intemann, Levido and Turner

**AGAINST:** Pinson

Councillor Griffiths returned to the meeting, the time being 10:11pm.

## Appendix B – Proponent's Planning Proposal Request

---

19 February 2020

Job No. 4671

The General Manager  
Port Macquarie Hastings Council  
Corner Lord and Burrawan Street  
**PORT MACQUARIE NSW 2444**

Attention: Leanne Fuller

Dear Leanne,

**Re: Planning Proposal – Crestwood Drive, Port Macquarie - Site Specific Planning Proposal - B1  
Neighbourhood Centre**

I refer to Council's latest letter dated 10 December 2020 regarding the Site Specific Planning Proposal for Part Lot 500 DP 1237901, Crestwood Drive, Port Macquarie which proposed rezoning to B2 Local Centre. Thank you for Council's time to meet to discuss the issues.

Council's letter states:

*"As discussed at the meeting, Council staff are not supportive of a "commercial/business" zoning of the site generally for the reasons outlined in our letter of 20 November 2019, and having regard to the commercial centres hierarchy in the UGMS.*

*A pathway for a potential future zoning of the land has been offered in Council's correspondence (E3 Environmental Management), or potentially an RE2 Private Recreation zone as also discussed at the meeting. Please note the significant bushfire issues a commercial zoning of any type would encounter, due to the enabling of residential uses in either a B1 Neighbourhood Centre or B2 Local Centre zone."*

We have amended our Planning Proposal request to seek a commercial zoning over the entire site to B1 Neighbourhood Centre.

We have taken on board the discussion and the issues outlined above and am aware of the key principal issue with the previously proposed residential zone, and the current proposed business zone, relates to bushfire. It is clear from the discussions with Council's Bushfire Officer that residential use of the land cannot be achieved due to bushfire constraints. Therefore, allowing a residential land use in the B1 zone such as shop top housing would not be able to be achieved due to bushfire constraints, despite the zoning.

Whilst bushfire would prevent specific land uses at the Development Application stage when a full assessment of a specific land use is known and able to be undertaken, the landowner is proposing to be proactive and place a

restriction on the title which prohibits residential use of the site. Council would be the responsible authority to control any variation to this restriction, which is not anticipated to occur.

There is local support and community pressure from the local Crestwood community group for commercial / retail uses adjacent to the park. Business use of this land would not only benefit the local residents of Crestwood but further afield to nearby estates such as Dahlsford, as well as the wider community who are users of the Googik Track. The proposed zoning will improve the liveability of the Crestwood estate and overall health of the residents.

We respectfully note Council's suggestions for E3 Environmental Management or RE2 Private Recreation zones, however they are very restrictive and do not allow for the community demand in this area to be satisfied.

Council also raised a concern regarding the impacts upon the Retail / Commercial hierarchy of the wider area, however we have addressed this within the Initial Business Demand Supply Review, which clearly identifies a gap and that no new centres in this southern Lighthouse / Dahlsford / Emerald portion of Port Macquarie has been developed for some time and is overdue.

The landowner has continuously indicated a desire to create a café and similar commercial or retail uses which have a wider for community benefit. The provision of amenities and drinking water facilities for the park and Googik Track encourage physical and social activities, enhances the park and provides greater interaction of the wider community, in addition to servicing the residents of Crestwood. The B1 zoning will allow for a small commercial / retail community hub, with both local and broader benefits.

As indicated previously to Council, development of this isolated rural parcel of land in accordance with the existing zoning is unlikely to result in an outcome incompatible with the surrounding residential estate and undesirable for the residents. Alternatively, remaining in its current state is also undesirable.

The landowner is also keen to explore opportunities within the commercial use of the land to incorporate clean energy initiatives, for example installation of solar panels to feed power straight into grid, which will have additional community and environmental benefits.

There is an increasing community support from the residents of Crestwood, which is intensifying as the estate is expanding. There has been for many years previous Council officer support (which resulted in the request by Council to lodge the Planning Proposal) and current and previous elected Councillors for a low scale business centre with facilities for the local community to assist with their day-to-day needs, provide a social meeting space through cafes, amenities including drinking fountains and toilets and shade areas.

This parcel of land is residue and has the opportunity to be the central hub of the estate. The rural zoning of the site is unsuitable and there is need for a suitable infill development which has a benefit to the landowner and the community, rather than leaving an overgrown residue piece of land in a prominent location, frequented by not only residents by visitors to the area.

Whilst the zoning being sought is for business purposes, the commercial businesses that are likely to be provided on this land will comprise uses such as cafes, restaurants, doctors, convenience store and the like. These all contribute to bringing the community together through these land uses and have far wider positive social impacts for the local and broader community.

There is a strong ownership by the community of the playground and this would be extended to the business facilities. It is anticipated this land would benefit the community, as originally anticipated in the development consent for a larger park and drainage. There would be a boost to the local economy, as well as the tourist sector, given the connections to residential areas and the Googik Track, which is promoted wider in the region, as well as state-wide through NPWS and NSW tourism.

The development of the land would be easily translatable into the development assessment process once rezoning to B1 occurs given the extensive bushfire investigations and fill works already undertaken.

We now make a further submission of a Planning Proposal for B1 Neighbourhood Centre and associated Appendices, which address the legislative requirements, the Pre-lodgement meeting minutes, and Council's letter dated 10 December 2020. We welcome the opportunity to discuss further and look forward to the Planning Proposal being reported to Council and proceeding to the Department of Planning for Gateway determination.

Yours faithfully



Graham Burns

Director – Land Dynamics Australia

**Attachments: B1 Planning Proposal & Appendices 1 to 8**



**LandDynamics**  
AUSTRALIA

## PLANNING PROPOSAL

Rezoning of RU1 Primary Production land to  
Zone B1 Neighbourhood Centre

Part Lot 500 DP 1237901  
Crestwood Drive, Port Macquarie

On behalf of  
Tony Richmond

February 2020

**Prepared for:**

Tony Richmond

**Prepared By:**

**Land Dynamics Australia**

77 Lord Street Port Macquarie NSW 2444 – PO Box 2459 Port Macquarie NSW 2444

T: 02 6583 2677 E: [pm@ldynamics.com.au](mailto:pm@ldynamics.com.au)

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	<b>Name</b>	<b>Date</b>
<b>Prepared By</b>	Donna Clarke	19/2/2020
<b>Checked By</b>	Graham Burns	19/2/2020

**Disclaimer**

*This report was prepared in accordance with the scope of works set out in correspondence between the client and Land Dynamics Australia. To the best of Land Dynamics Australia's knowledge, the report presented herein accurately reflects the Client's intentions when the report was printed. However, it is recognised that conditions of approval at time of consent, post development application modification of the proposals design, and the influence of unanticipated future events may modify the outcomes described in this report.*

*Land Dynamics Australia used information and documentation provided by external persons, companies and authority. Whilst checks were completed by Land Dynamics Australia to ensure that this information and/or documentation was accurate, it has been taken on good faith and has not been independently verified. It is therefore advised that all information and conclusions presented in this report apply to the subject land at the time of assessment, and the subject proposal only.*

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## PRELIMINARY

This Planning Proposal has been drafted in accordance with Section 3.33 of the Environmental Planning and Assessment Act 1979 and the Department of Planning and Environment's "A Guide to Preparing Planning Proposals" dated August 2016.

This Planning Proposal seeks rezoning of residue land from the Crestwood residential estate from RU1 Primary Production zone use to B1 Neighbourhood Centre zone to develop a variety of business and commercial uses which complement the surround residential land uses. There is an increasing community support from the residents of Crestwood, which is intensifying as the estate is expanding. There has been for many years previous Council officer support (which resulted in the request by Council to lodge the Planning Proposal) and current and previous elected Councillors for rezoning which would include a low scale business centre with facilities for the local community to assist with their day-to-day needs, provide a social meeting space through cafes, amenities including drinking fountains and toilets and shade areas.

This parcel of land is residue and has the opportunity to be the central hub of the estate. The rural zoning of the site is unsuitable and there is need for a suitable infill development which has a benefit to the landowner and the community, rather than leaving an overgrown residue piece of land in a prominent location, frequented by not only residents but also by visitors to the area. Rezoning to residential land uses has been ruled out due to bushfire constraints.

Whilst the zoning being sought is for business purposes, the commercial businesses that are likely to be provided on this land will comprise uses such as cafes, restaurants, doctors, convenience store and the like. These all contribute to bringing the community together through these land uses and have far wider positive social impacts for the local and broader community. There is a strong ownership by the community of the playground and this would be extended to the business facilities. It is anticipated this land would benefit the community, as originally anticipated in the development consent for a larger park and drainage. There would be a boost to the local economy, as well as the tourist sector, given the connections to residential areas and the Googik Track, which is promoted wider in the region, as well as state wide through NPWS and NSW tourism.

The development of the land would be easily translatable into the development assessment process once rezoning to B1 occurs given the extensive bushfire investigations and fill works already undertaken.

## BACKGROUND

Council has granted consent to a number of Development Applications for residential subdivision purposes in the 1990s through to 2010 and included a playground over a larger area which included the subject site. Refer to extract below in Figure 2 which indicates the larger area for park approved by Council.

On 15 March 2017, Council resolved to invite a Planning Proposal for a site-specific amendment on the subject site to facilitate a rezoning of 5,390m<sup>2</sup> of land in the Crestwood Estate and amend the Port Macquarie-Hastings LEP 2011 to R1 General Residential to permit future development. Below in Figure 1 is an extract of the Council report on the matter, noting that the Planning Proposal as lodged was for residential.

Prior to this resolution and invitation from Council, there has been for many years previous Council officer support and current and previous elected Councillors for a low scale business centre with facilities for the local community to assist with their day-to-day needs, provide a social meeting space through cafes, amenities including drinking fountains and toilets and shade areas. This parcel of land is residue from the wider residential subdivision and the rural zoning of the site is unsuitable and there is need for a suitable infill development which has a benefit to the

landowner and the community, rather than leaving an overgrown residue piece of land in a prominent location, frequented by not only residents by visitors to the area.

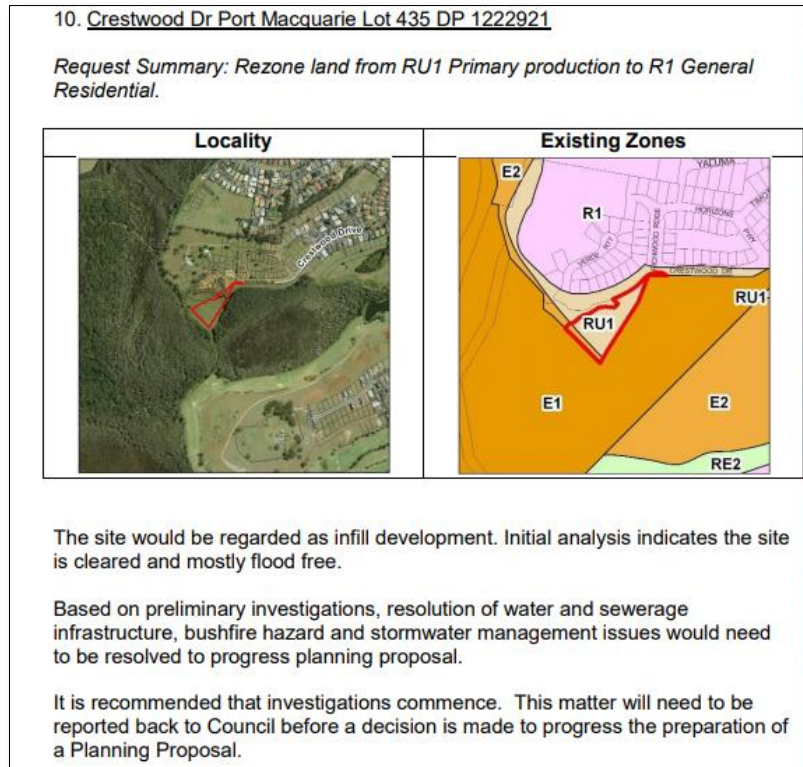


Figure 1 – Extract of Council report 15 March 2017(source: [www.pmhc.nsw.gov.au](http://www.pmhc.nsw.gov.au))

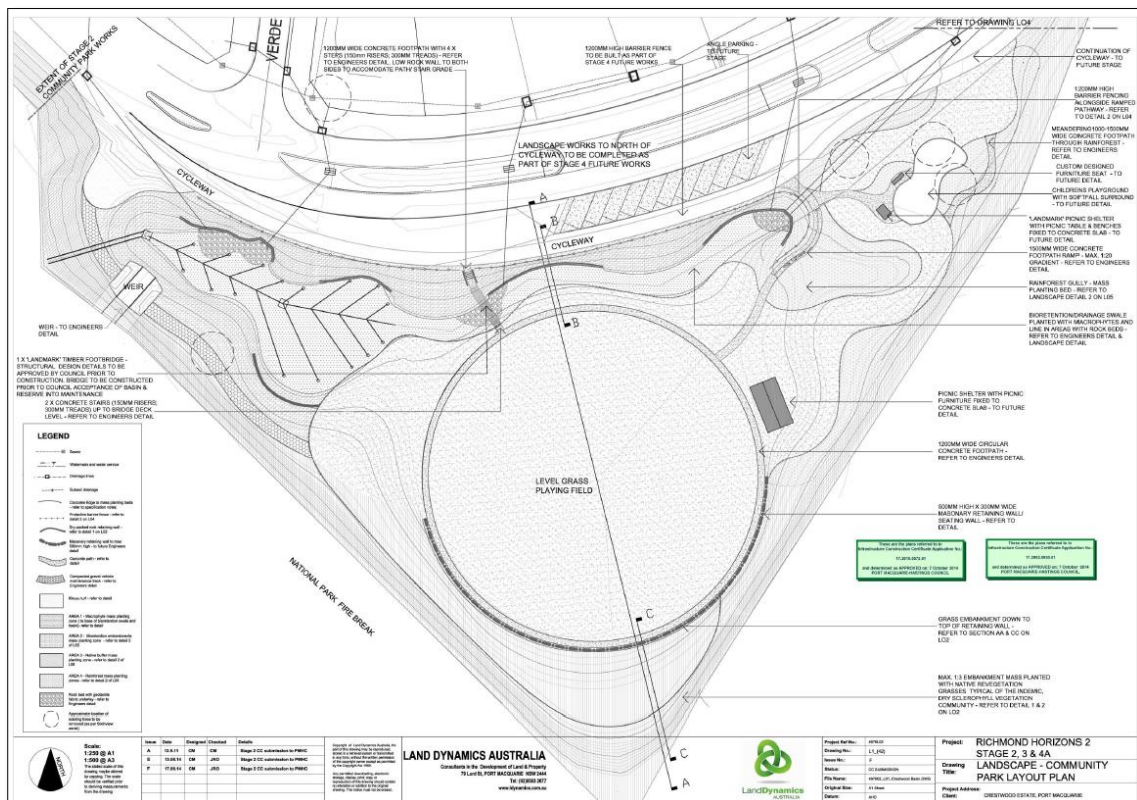


Figure 2 – Extract – Larger Park as Approved

Walking / cycling tracks have been encouraged throughout the residential areas via on street pathways and shareways, as well as the Googik Track. The proposed rezoning will enhance these facilities and provide facilities at the destination, rather than just a standalone playground. This previous planning for walkability, cycling and public transport will have less impacts upon the local road network, as well as environmental benefits from reducing car expectancy for day to day needs such as milk, bread or to catch up with friends and associated positive address of climate change.

It is anticipated this land would benefit the community, as originally anticipated in the development consent for a larger park and drainage. Council scaled down the size of the park being provided as part of the subdivision, however continued on with pursuing connectivity, social and exercise benefits for the community, and at that time were encouraging the developer to establish community based businesses with discussions around a café/bakery containing NPWS & Council information centres (not manned by staff but posters /stories/fauna /flora info).Further, NPWS at the time had plans for Googik Track extension trails and negotiated with Emerald Downs for access to continue on from Crestwood. It would be a significant loss for the community for all of this planning and foresight to be lost and for the vision not to be realised. This B1 zoning would allow this to be facilitated and address community desires and continue this vision. The strategic vision for the site with respect to the needs of the local population and the wider community needs to be considered in this instance in order to avoid a residue parcel of land remaining in a derelict state.

On 6 June 2017, Council held a pre-lodgement meeting to discuss a planning proposal. Investigations have continued since the pre-lodgement meeting to address the comments discussed at the meeting and prepare this Planning Proposal report.

Following on from the pre-lodgement meeting, on-going discussions, including a site inspection, were held with National Parks & Wildlife Services regarding the previous informal agreements regarding a fire trail on their adjoining land and options for formalizing the trail on title. At the end of the discussions over a period of many months, it was agreed that all bushfire requirements must be contained on site, notwithstanding that the fire trail on the ground on the adjoining land and that it is likely to continue. A formal written agreement could not be reached with NPWS for continued maintenance and formalization of the fire trail.

An onsite meeting was also held with a representative from the Birpai Land Council, who raised no objection to the development of the land.

Since the request in March 2017, the zoning map for this immediate area has changed and the lot has been altered as result of the nearby development and dedication of land to Council for the park, resulting in the portion of land available for rezoning being reduced to approximately 5,027m<sup>2</sup>.

On 14 November 2018, a site-specific Planning Proposal was lodged as invited by Council. The Planning Proposal was for a rezoning of RU1 Primary Production land to R1 General Residential.

Council's response letter of 14 March 2019 advised Council would not support a recommendation to proceed with the preparation of a Planning Proposal to rezone the land for residential purposes, primarily related to bushfire issues. Meetings were held with Council Officers on 16 April 2019 and 18 June 2019 to discuss the issues, identifying the key concern being related to bushfire measures and the ability to accommodate the requirement asset protection zones on site without any reliance on the adjacent Council playground or the National Park reserves. It was clear from the discussions that residential use of the land cannot be achieved due to bushfire constraints. As indicated at the meeting, development of this isolated rural parcel of land in accordance with the existing zoning is unlikely to result in an outcome incompatible with the surrounding residential estate and undesirable for the residents. Alternatively, remaining in its current state is also undesirable.

The issues raised by Council in their letter and discussed at the meeting were taken on board and the Planning Proposal was amended to request to seek a B2 Local Centre commercial zoning over the entire site, given that this form of development does not require bushfire restrictions to the same extent as residential land uses.

Council's latest letter dated 10 December 2019 regarding proposed rezoning to B2 Local Centre states:

*"As discussed at the meeting, Council staff are not supportive of a "commercial/business" zoning of the site generally for the reasons outlined in our letter of 20 November 2019, and having regard to the commercial centres hierarchy in the UGMS.*

*A pathway for a potential future zoning of the land has been offered in Council's correspondence (E3 Environmental Management), or potentially an RE2 Private Recreation zone as also discussed at the meeting. Please note the significant bushfire issues a commercial zoning of any type would encounter, due to the enabling of residential uses in either a B1 Neighbourhood Centre or B2 Local Centre zone."*

The Planning Proposal has been amended to request to seek a commercial zoning over the entire site to B1 Neighbourhood Centre. The issues outlined above and subsequent discussions with Council have been taken on board including the key principal issue with the previously proposed residential zone, and the current proposed business zone, relates to bushfire. It is clear from the discussions with Council's Bushfire Officer that residential use of the land cannot be achieved due to bushfire constraints. Therefore, allowing a residential land use in the zone such as shop top housing would not be able to be achieved due to bushfire constraints, despite the zoning. Whilst bushfire would prevent specific land uses at the Development Application stage when a full assessment of a specific land use is known and able to be undertaken, the landowner is proposing to be proactive and place a restriction on the title which prohibits residential use of the site. Council would be the responsible authority to control any variation to this restriction, which is not anticipated to occur.

There is local support and community pressure from the local Crestwood community group for commercial / retail uses adjacent to the park. Business use of this land would not only benefit the local residents of Crestwood but further afield to nearby estates such as Dahlsford estate, as well as the wider community who are users of the Googik Track.

We respectfully note Council's suggestions for E3 Environmental Management or RE2 Private Recreation zones, however they are very restrictive and do not allow for the community demand in this area to be satisfied. Council also raised a concern regarding the impacts upon the Retail / Commercial hierarchy of the wider area, however we have addressed this within the Initial Business Demand Supply Review, which clearly identifies a gap and that no new centres in this southern Lighthouse / Dahlsford / Emerald portion of Port Macquarie has been developed for some time and is overdue.

It is envisaged that once Gateway determination is achieved for the rezoning, detailed design will begin, and a Development Application prepared, which will run concurrently with the rezoning and allow Council to have greater detail.

## EXECUTIVE SUMMARY

The proposal seeks to rezone the privately owned land known as Part Lot 500 DP 1237901, Crestwood Drive, Port Macquarie from its current RU1 Primary Production zone use to B1 Neighbourhood Centre zone to develop a variety of commercial uses. Rezoning the land is considered the most suitable and transparent way of achieving the objectives of this proposal.

The purpose of this Planning Proposal is to rezone residue land resulting from the original subdivision to allow for commercial use. This land was surplus to Council's needs for a park and use for commercial purposes is

complimentary with the surrounding residential subdivisions. Further, the rural use of the land is incompatible with the surround residential estate and proposed playground.

The rezoning or addition of a clause to allow commercial uses is also sought, which may include Business premises, Community facilities; Medical centres; Neighbourhood shops and Neighbourhood supermarkets. This will provide for a valuable facility for use by the surrounding residential and wider community.

It is proposed that the height and floor space controls be increased from those surrounding as the site is unique in its shape, not adjoined directly adjoined by residential due to the wide road and detention basin, and in order to accommodate development of the site and incorporate the required commercial bushfire controls on site.

Indicative building envelope plan has been developed to assist in consideration of the Planning Proposal.

## PRE-LODGE MENT

As a result of the pre-lodgement meeting held 14 November 2018 and a preliminary staff assessment of the pre-lodgement information, Council provided information to assist in relation to preparation of this submission. The formal notes accompany this submission and below is a summary of the main points raised at the pre-lodgement meeting and the information that is to be addressed, noting that some components relate to the level of detail required for a Development Application, which is proposed to be lodged concurrently with the rezoning post Gateway determination. The notes indicate *"your application should contain enough information to ensure Council support for submission of a planning proposal to the Department of Planning for a Gateway Determination"*.

- Planning Proposal submission to address North Coast Regional Plan and Port Macquarie-Hastings Urban Growth Management Strategy.
- Bushfire.
- Stormwater and Hydrology.
- Flooding.
- Aboriginal Cultural Assessment.
- Public Open Space interface to park and National Park.
- Services Plan (sewer, water).
- Engineering, access, waste and floor levels for future development.

This Planning Proposal has provided the information where possible, however further detail will accompany the Development Application.

The above documentation and comments at the Pre-lodgement meeting remain applicable for the commercial zoning now proposed. In now considering a commercial zoning of the site, an indicative building, access and car parking layout was developed, providing adequate bushfire setbacks to ensure the site is suitable in size to accommodate a commercial use.

## PART 1 – OBJECTIVES OR INTENDED OUTCOMES

This Planning Proposal aims to amend LEP 2011 to permit a Neighbourhood Centre to be located on the eastern portion of the site known as Crestwood Triangle land.

The key objectives of this Planning Proposal is to:

- Achieve business development of the site, complementary to the surrounding area and land uses, whilst having regard to the irregular shape and constraints of the site.
- Enable the residue rurally zoned land, which is not required by Council for open space purposes, to be developed for commercial purposes, specifically a Neighbourhood Centre to complement the residential estate of Crestwood and provide supporting services for the residents such as a café, restaurant, doctor and neighbourhood shops.
- To promote the health and wellbeing of the community.

The location of the subject site is shown in Figure 3 indicated by the red star and comprises the southern part of Lot 500. The aerial photograph identifies the site and surrounds.

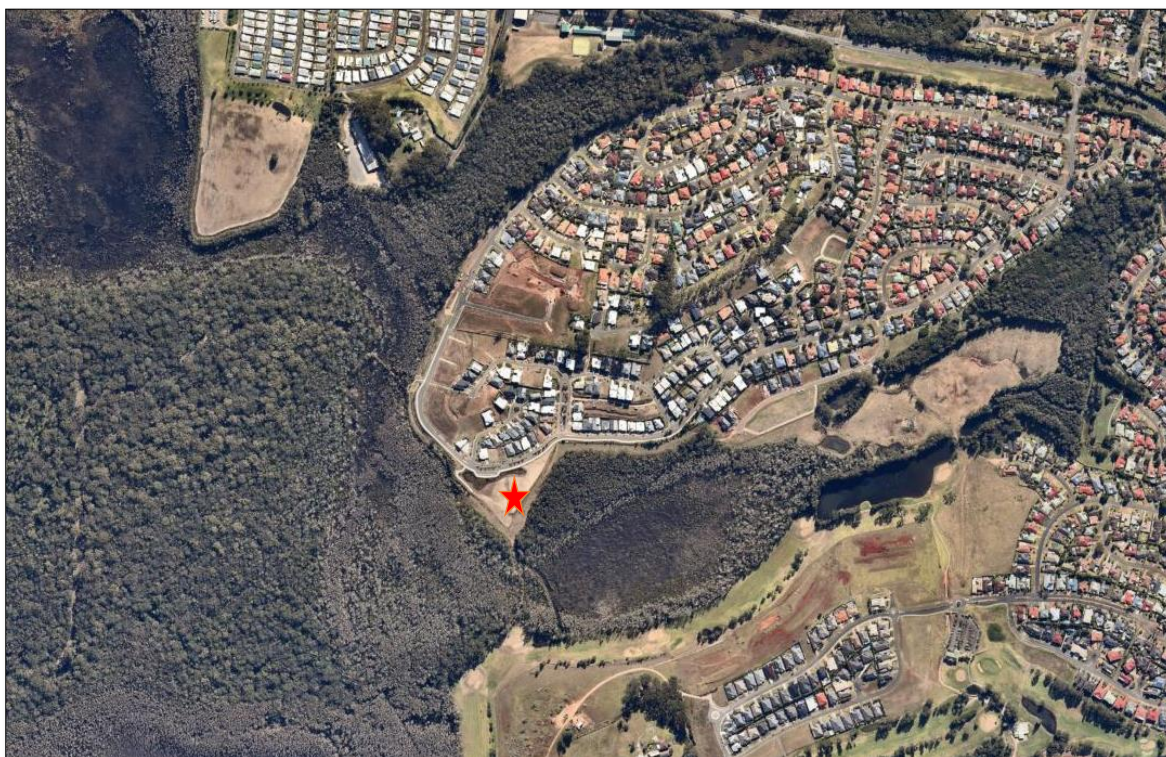


Figure 3 – Aerial Photograph of the Site (source: [www.nearmaps.com](http://www.nearmaps.com))

The site is a residue allotment resulting from an approved staged subdivision known as Crestwood Heights, as shown below. The whole site was to be dedicated to Council as open space, however Council advised the total site was not required. Accordingly, this planning proposal is seeking re-zoning to allow for future commercial development of the remaining portion of land. The existing rural zoning of the land is incompatible with the surround residential estate and proposed playground and as such the proposed rezoning will provide for more appropriate and complimentary land uses. The lot previously had a detention basin through the north-eastern portion, adjacent to Crestwood Drive, which has now been dedicated to Council.



Figure 4 - Site Plan (source: [www.sixmaps.nsw.gov.au](http://www.sixmaps.nsw.gov.au))

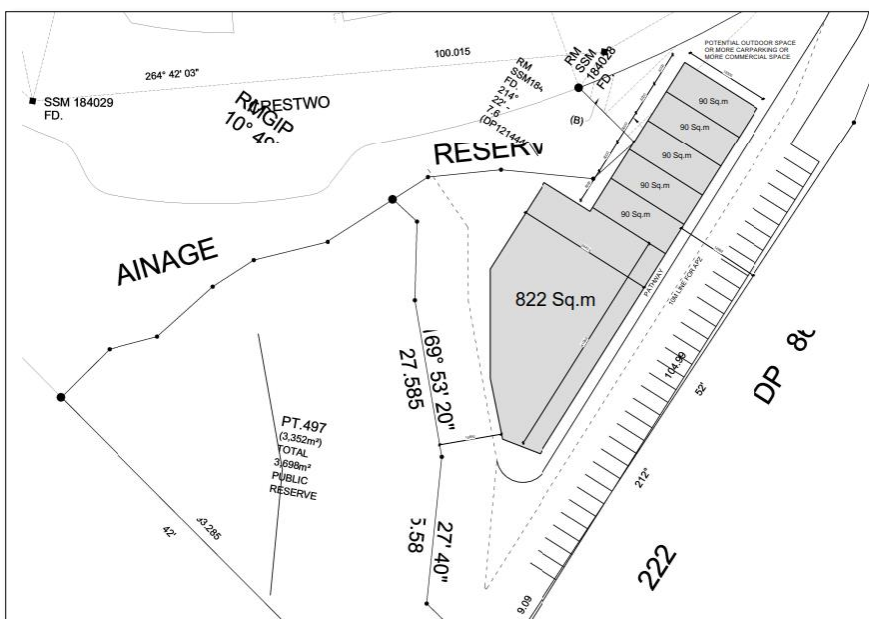


Figure 5- CONCEPT ONLY - Indicative Site Plan for Commercial Purposes (source: Collins W Collins)

The indicative Site Plan shown above in Figure 5 illustrates a building envelope for a potential commercial development and associated parking and that this can be satisfied on the site. It is noted the Planning Proposal for a rezoning is applicable to the entire site, not just the building envelope. This is a concept only and could take many alternate forms in accordance with the B1 zoning.

This parcel of land is residue and has the opportunity to be the central hub of the estate. The rural zoning of the site is unsuitable and there is need for a suitable infill development which has a benefit to the landowner and the community, rather than leaving an overgrown residue piece of land in a prominent location, frequented by not only residents by visitors to the area.

## PART 2 - EXPLANATION OF PROVISIONS

To facilitate commercial development on the land, the following amendments to the Port Macquarie Local Environment Plan (LEP) 2011 are proposed with the outcomes to be achieved by:

- Amending the Port Macquarie – Hastings Local Environmental Plan 2011 Land Zoning Map 13G on the residue allotment on Part Lot 500 DP 1237901, Crestwood Drive, Port Macquarie in accordance with the proposed zoning map shown in Appendix 1 to B1 Neighbourhood Centre.
- Amending the Port Macquarie – Hastings Local Environmental Plan 2011 Floor Space Ratio Map in accordance with the proposed floor space ratio map, to indicate a maximum permissible floor space ratio of 1.5:1.
- Amending the Port Macquarie – Hastings Local Environmental Plan 2011 Height of Buildings Map in accordance with the proposed height of buildings map, to indicate a maximum permissible height of 11.5m.

### Existing Situation

Under Council's principle planning instrument, *Port Macquarie-Hastings Local Environmental Plan 2011* (LEP 2011), the subject site (Part Lot 500 DP 1237901, Crestwood Drive, Port Macquarie) is zoned RU1 Primary Production with a minimum subdivision lot size of 40 hectares. This zoning reflects the previous rural use of the wider area before residential rezoning and development and is no longer the appropriate zone.

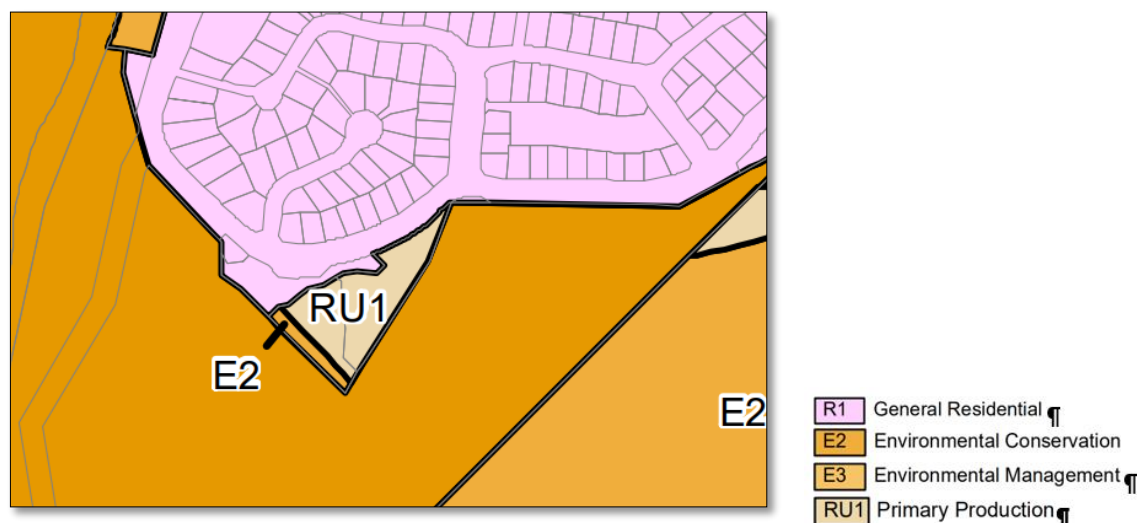


Figure 6 - Existing Zoning Extract from PMHLEP 2011 (source: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au))

The maps accompanying the current LEP also identify the site as being affected by flooding and acid sulphate soils. Note: the flooding affection is questionable given the filling of the site that has occurred on site.

The site currently does not have floor space ratio or height controls applicable. The residential land surrounding has a maximum FSR of 0.65:1 and 8.5m in height.

The site is within the vicinity of an archaeological site to the west, being Lake Innes Ruins Nature Reserve, as detailed on the heritage map.

## Proposed Zone Changes

The existing zoning for rural purposes was acceptable when the land was proposed to be dedicated to Council for open spaces purposes. Subsequently Council has advised they do not wish to be burdened with the entire site and as such a residue parcel has resulted and the invitation for the site specific rezoning was forthcoming. The site at the time of the request by Council has an area of 5390m<sup>2</sup>, and now approximately 5027m<sup>2</sup>, which is well below the minimum lot size for the RU1 zone.

Given that this portion of land is surplus to Council's needs, the rezoning to B1 Neighbourhood Centre will allow for services to complement the existing residential area such as Food and Drink premises; Business premises; Community facilities; Medical centres; Neighbourhood shops; Neighbourhood supermarkets.

The relevant portion is highlighted below on the existing zoning map is the section requesting a map change.

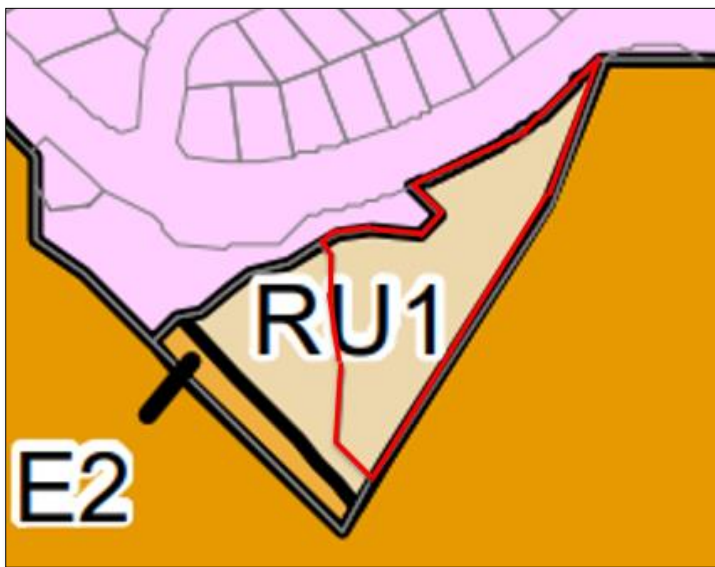


Figure 7 - Part of Lot 500 subject of Planning Proposal Highlighted red

The B1 Neighbourhood Centre zoning table states:

### Zone B1 Neighbourhood Centre

#### 1 Objectives of zone

- To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.
- To ensure that new developments make a positive contribution to the streetscape and contribute to a safe public environment.
- To provide a focal point for the neighbourhood community.

#### 2 Permitted without consent

Home occupations

#### 3 Permitted with consent

Boarding houses; Business premises; Centre-based child care facilities; Community facilities; Medical centres; Neighbourhood shops; Neighbourhood supermarkets; Oyster aquaculture; Respite day care

centres; Roads; Shop top housing; Tank-based aquaculture; Any other development not specified in item 2 or 4

#### 4 Prohibited

Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Camping grounds; Caravan parks; Cemeteries; Correctional centres; Crematoria; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Function centres; Garden centres; Hardware and building supplies; Health services facilities; Heavy industrial storage establishments; Helipads; Highway service centres; Home occupations (sex services); Industrial retail outlets; Industrial training facilities; Industries; Landscaping material supplies; Marinas; Mooring pens; Mortuaries; Open cut mining; Plant nurseries; Pond-based aquaculture Port facilities; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Restricted premises; Roadside stalls; Rural industries; Rural supplies; Sewerage systems; Sex services premises; Specialised retail premises; Storage premises; Timber yards; Tourist and visitor accommodation; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres; Waste or resource management facilities; Wharf or boating facilities; Wholesale supplies

It has always been envisaged that a low scale form of retail or commercial premises would support the residential area of Crestwood, as well as the playground, and the users of the Googik Track.

The proposed B1 zoning allows for a variety of land uses which would complement the residential land uses nearby, as has been achieved by way of other local and neighbourhood centres such as Watonga and Waniora Shops.

## PART 3 – JUSTIFICATION

The site is currently vacant cleared land. The location of the site is adjacent to a recently constructed park being provided as part of the approved subdivision, road and residential dwellings to the north and existing dense vegetation which forms part of the Lake Innes Ruins Nature Reserve and contains the Googik Track.

Whilst the zoning being sought is for business purposes, the commercial businesses that are likely to be provided on this land will comprise uses such as cafes, restaurants, doctors, convenience store and the like. These all contribute to bringing the community together through these land uses and have far wider positive social impacts for the local and broader community.

To promote the health and wellbeing of a community, it is important to provide and promote walkability, public transport, public open space, housing affordability, employment, and food premises. Liveability is defined as:

*‘A liveable community is one in which it is easy and comfortable to carry out day-to-day life, for a range of different people. It should be ‘safe, attractive, socially cohesive and inclusive, and environmentally sustainable; with affordable and diverse housing linked by convenient public transport, walking and cycling infrastructure to employment, education, public open space, local shops, health and community services, and leisure and cultural opportunities’.*

(source: Lowe, M, Whitzman, C, Badland, H, Davern, M, Aye, L & Hes, D 2015, ‘Planning healthy, liveable and sustainable cities: How can indicators inform policy?’, *Urban Policy and Research*, vol. 33, no. 2, pp. 131–44)

Creating Liveable Cities in Australia by Centre for Urban Research RMIT University, 2017 states:

*'Liveable communities are good for the economy, social inclusion and environmental sustainability, and promote the health and wellbeing of residents. They have affordable housing linked by public transport, walking and cycling paths to workplaces, public open space and all the amenities required for daily living.'*

Walking and cycling tracks have been encouraged throughout the residential areas via on street pathways and shareways, as well as the Googik Track. The proposed rezoning will enhance these facilities and provide facilities at the destination, rather than just a standalone playground. This previous planning for walkability, cycling and public transport will have less impacts upon the local road network, as well as environmental benefits from reducing car expectancy for day to day needs such as milk, bread or to catch up with friends and associated positive address of climate change.

There is a strong ownership by the community of the playground and this would be extended to the business facilities. It is anticipated this land would benefit the community, as originally anticipated in the development consent for a larger park and drainage. Council scaled down the size of the park being provided as part of the subdivision, however continued on with pursuing connectivity, social and exercise benefits for the community, and at that time were encouraging the developer to establish community based businesses with discussions around a café/bakery containing NPWS & Council information centres (not manned by staff but posters /stories/fauna /flora info). Further, NPWS at the time had plans for Googik Track extension trails and negotiated with Emerald Downs for access to continue on from Crestwood. It would be a significant loss for the community for all of this planning and foresight to be lost and for the vision not to be realised. This B1 zoning would allow this to be facilitated and address community desires and continue this vision. The strategic vision for the site with respect to the needs of the local population and the wider community needs to be considered in this instance in order to avoid a residue parcel of land remaining in a derelict state.

There would be a boost to the local economy, as well as the tourist sector, given the connections to residential areas and the Googik Track, which is promoted wider in the region, as well as state wide through NPWS and NSW tourism.

The development of the land would be easily translatable into the development assessment process once rezoning to B1 occurs given the extensive bushfire investigations and fill works already undertaken.

The additional reasons to support this request are:

- The site as a whole is not viable as rural land in its own right and is residue portion following the creation of the Crestwood estate. As such, the site is ideal for further rezoning as it will not result in loss of prime agricultural land, but rather allow for business purposes and neighbourhood conveniences and a safer and more logical use of the land.
- The site is a residue portion of land, distinctly separate to the residential and surrounded by a road, park and National Park.
- The land has been filled to above the flood planning level, which will make the land suitable for development and also mitigate acid sulfate soils.
- The potential amenity impacts relate to the residential dwellings constructed (or under construction) to the north, however there is separation by a wide road with a central landscaped median and drainage basin, which assists in reducing potential impacts.
- There will be positive social and economic benefits from the proposed rezoning, by way of a facility which is likely to be well utilised and in much need for residents in Crestwood estate, as well as users

of the Googik Track and playground, with toilets and a café/kiosk likely. The economic boost to the local economy is provided by the commercial precinct and all areas of the community which are involved in construction, selling / leasing and on-going operation of businesses. The commercial site will be desirable being in proximity to the proposed open space, Googik Track and Nature Reserve and the proposed commercial / retail component to service the residential area and users of the playground.

- The immediate area features a range of lot sizes which are characteristic of a residential locality. The intended future Neighbourhood Centre rezoning will create commercial premises.
- The site is located within an established residential area with numerous small sized allotments. The future development of a Neighbourhood Centre would not affect the amenity of surrounding land uses. Moreover, the rezoning would permit a greater diversity on the land.
- The area is an established and well serviced residential location. Demand for commercial land in both Port Macquarie and the LGA is high, hence the identification of this land for rezoning. There is a clearly identified need for local conveniences for residents in Crestwood and other nearby estates.
- The future rezoning is essential for the ongoing management of the subject land, with the rural rezoning unviable and the site rendered unusable, noting that a dwelling is currently unable to be built on the site. The existing rural zoning of the land is incompatible with the surround residential estate and proposed playground and as such the proposed rezoning will provide for more appropriate and complimentary land uses.
- No removal of existing vegetation is proposed or necessary in order to facilitate the future rezoning.
- The proposal is complementary to the surrounding zoning.
- The proposed rezoning would offer increased overall viability of the parcel by improving manageability of the land.
- The site has access to permanent water supply and services deeming is suitable for rezoning to commercial.
- The site has been set up for development, with a basin in place and filling already occurred.
- The bushfire constraints for businesses uses can be accommodated on site.
- There will be positive social and economic benefits from the proposed rezoning, by way of small scale commercial and retail component.
- The proposed rezoning is a logical extension of the existing residential, providing orderly development.
- The provision of commercial and retail uses as additional permitted uses would allow for flexibility in the design of the built form on the site and provide opportunity for the zone objectives to be satisfied by way of other land uses being incorporated that provide facilities or services to meet the day to day needs of residents, as well as those visiting the park.
- Promote renewal opportunity that have good accessibility and proximity to social infrastructure.
- Encourage infill development in and around local areas with existing sufficient infrastructure to support growth.

- There is a need to consider community aspirations for commercial versatility, therefore being responsive to shifts in local markets for infill developments and/or unexpected population growth. Rezoning this site, considering its location, has the potential to promoting healthy active lifestyles and sustainable land use. This is additionally a big factor in the proposal which adjoins the National Park, Googik Track and within proximity to the beach, parkland for use by the new residents.

## Section A - Need for the Planning Proposal

### 3.1 Is the planning proposal a result of an endorsed local strategic planning statement, strategic study or report?

Yes. The Planning Proposal is not the result of a strategic study or report. The Planning Proposal is in response to zoning that is inconsistent with the current and future use of the site. The Planning Proposal seeks to rezone the site from RU1 Primary Production to B1 Neighbourhood Centre to allow commercial and business development on the site.

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

Yes. The planning proposal is the only legal method of amending LEP 2011 to permit development applications to be submitted, considered and determined for a change of use of the site. The site is constrained by its shape, as well as bushfire requirements, and as such the proposed height and FSR controls are reflective of the need to think outside the square in determining the controls for this site.

## Section B - Relationship to strategic planning framework

### 3.3 Will the planning proposal give effect to the objectives and actions of the applicable regional, or district plan or strategy (including any exhibited draft plans or strategies)?

The North Coast Regional Plan 2036 identifies that the greatest population growth pressure will be experienced around the regional cities like Tweed Heads, Coffs Harbour and Port Macquarie. As such bringing greater opportunities for commercial choice to meet the growing and changing population.

The Regional Plan indicates that new commercial precincts, outside of centres, should be appropriately sized and of scale relative to the area they will be servicing, and demonstrate how they will deliver positive social and economic benefits for the wider community and maintain the strength of the regional economy.

The proposed neighbourhood centre is small in scale, appropriate for the residential estate of Crestwood. These residents have no other neighbour centre within walking distance, or close by. The closest facilities are Lighthouse Coles and specialty shops, which is a larger centre and approx. 2.5km by car. There is a strong demand from the existing and future residents, as well as the users of the playground and Googik Track for this low scale neighbourhood centre.

The site is accessed via existing infrastructure via walking, private vehicle, bus services and bicycles, or a combination. The connectivity of the site cannot be ignored.

An important benefit of the rezoning of the land is that the value of the public realm will be enhanced significantly and the uses will complement the playground and Googik Track, allows for an appropriate interface through design and significantly improves the streetscape and view of the site from the public road, playground and dwellings.

Given the forecasted growth for the region and the increase in population continuing to arrive in Crestwood, there is a clear need to provide additional local commercial or retail services for their day to day needs, as well as providing employment opportunities.

An appropriate supply of employment land will be identified through local growth management strategies in locations that are supported by freight access and protected from encroachment by incompatible development.

The Strategy encourages accommodation of coastal growth whilst protecting coastal values and locating within an existing main settlement. In doing so, the site is considered suitable for residential purposes, with a small component of commercial zoned land to accommodate the information centre, for the following reasons:

- The site can be easily serviced as part of the approved overall subdivision.
- Notwithstanding the zoning, there will be no loss of agricultural land as it is a residue pocket of RU1 land which cannot be utilised for such purpose.
- The adjoining Nature Reserve with high ecological and heritage values is unlikely to be impacted upon as all works will be contained within the site.
- The site will not be constrained subject to fill which will mitigate flooding and acid sulfate soils.
- The site is located within the settlement of Port Macquarie, providing good services and facilities for the future residents.
- The small commercial portion of land will complement the residential area and provide a service for locals as well as visitors using the Googik Track.

It is considered that the Planning Proposal is consistent with the Regional Plan as it satisfies the Variation Criteria required for development outside the Urban Growth Area and has merit. These criteria form the basis of the strategic merit and site-specific merit assessment for the rezoning review process. Appendix A of the Regional Plan contains the Urban Growth Area Variation Principles, which are stated below in Section 3.4 and a comment provided.

### **3.4 Will the planning proposal give effect to a council's endorsed local strategic planning statement, or another endorsed local strategy or strategic plan?**

The proposal is determined to be consistent with Council's Community Strategic Plan and is also consistent with the Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036. The UGMS identifies areas of growth and investigation, but also makes reference to targeted infill development.

The Urban Growth Area (UGA) maps identified in the North Coast Regional Plan (NCRP) 2036 and within Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036 are broadscale. It appears that the site may be outside of the boundary, which is surprising given it is land which was originally part of an overall subdivision, as was the park. The site does adjoin the residential component of Crestwood which is within the UGA, this site specific rezoning has been invited by Council and is in keeping with the need for identified targeted infill development. Land Dynamics made a submission in 2015 to Urban Growth Strategy – Our Place, Our Future and from that and a further submission with site specific details and request for rezoning as part of Council's administrative amendments, the invitation was then extended to lodge the site specific planning proposal.

This parcel of land is an isolated piece surrounded by development or nature reserve, with no opportunities the rural or agricultural use of the land to continue successfully in its resulting form.

Map extracts from North Coast Regional Plan (NCRP) 2036 and Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036 are shown below with the approximately location of the site circled blue.




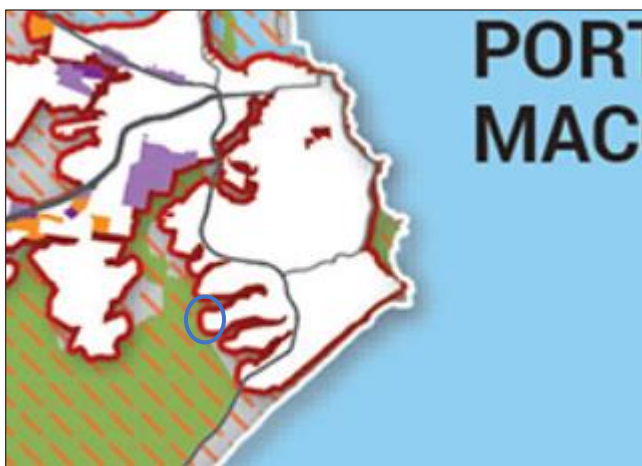
 Urban Growth Area Boundary

Figure 8 - Port Macquarie-Hastings Urban Growth Management Strategy 2017-2036 Extract (source: [www.pmhc.nsw.gov.au](http://www.pmhc.nsw.gov.au))




 Urban Growth Area

Figure 9 - North Coast Regional Plan 2036 Extract - Figure 24 (source: [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au))

The request meets the UGA Variation Principles as outlined in the below table.

URBAN GROWTH AREA VARIATION PRINCIPLES		Comment
Policy	The variation needs to be consistent with the objectives and outcomes in the <i>North Coast Regional Plan 2036</i> and any relevant Section 117 Directions and State Environmental Planning Policies, and should consider the intent of any applicable local growth management strategy.	Consistent.
Infrastructure	The variation needs to consider the use of committed and planned major transport, water and sewerage infrastructure, and have no cost to government. The variation should only be permitted if adequate and cost-effective infrastructure can be provided to match the expected population.	The site can easily be serviced as part of the recent subdivision. Adequate and cost-effective infrastructure can be provided to match to the site and the expected population. The site is serviced by infrastructure with respect to roads, cycleways, footpaths and existing bus services within Crestwood estate.
Environmental and farmland protection	The variation should avoid areas: <ul style="list-style-type: none"> <li>of high environmental or heritage value; and</li> </ul>	The area is not identified being of high environmental or heritage value as outlined within this report. The area is not mapped as important farmland but rather other rural land.

- mapped as important farmland, unless consistent with the interim variation criteria prior to finalising the farmland mapping review.

Land use conflict	The variation must be appropriately separated from incompatible land uses, including agricultural activities, sewage treatment plants, waste facilities and productive resource lands.	<p>The site land use is currently considered to be an incompatible land use being rural adjoining a new residential estate.</p> <p>The proposed land use for commercial purposes is considered appropriately separated from incompatible land uses, of agricultural activities, sewage treatment plants, waste facilities and productive resource lands.</p> <p>The commercial use will be compatible with the residential given its small scale and services those residents, as well as the playground users. The interface between the commercial land use and the playground will be addressed through design including landscaping.</p>
Avoiding risk	<p>The variation must avoid physically constrained land identified as:</p> <ul style="list-style-type: none"> <li>flood prone;</li> <li>bushfire-prone;</li> <li>highly erodible;</li> <li>having a severe slope; and</li> <li>having acid sulfate soils.</li> </ul>	<p>Risks are avoided, having regard to the specifics of each constraint.</p> <p>The site is bushfire prone, however is within the mapped buffer area only and there is a fire trail adjoining the site which separates the land from the nature reserve.</p> <p>The site has been filled as per approved construction certificates issued by Council and is considered flood free, non-erodible, level and not containing acid sulfate soils.</p>
Heritage	The variation must protect and manage Aboriginal and non-Aboriginal heritage.	An Aboriginal Cultural Assessment Report has been prepared and accompanies this Planning Proposal, with Recommendations stating, <i>"There are no objections to the development commencing"</i> .
Coastal area	Only minor and contiguous variations to urban growth areas in the coastal area will be considered due to its environmental sensitivity and the range of land uses competing for this limited area.	<p>The Rezoning to B1 Neighbourhood Centre is considered minor in nature and is complementary to the adjoining urban growth area and will benefit the residents surrounding the site.</p> <p>The site is a residue parcel of rural zoned land, which is not required by Council for open space purposes. The site is not identified as environmentally sensitive and the potential land use could be considered integral to the contiguous residential estate.</p> <p>It is considered to be orderly development to rezone the residue isolated rural parcel of land being only 5027m<sup>2</sup> in size, to a more appropriate zoning. The land continues from the R1 land which contains the residential dwellings and rezoning does not adversely impact upon environmental qualities of the land.</p>

The rezoned land would be considered as a local area centre, at the lower end of the retail hierarchy and is appositely sized with respect to other existing local centres. The UGMS identifies an increase in floor area up to 2036. The proposed rezoning is not at conflict with the identified economic and employment strategies within the UGMS, including the airport business park and health and education precinct. Further, with existing local centres not in close proximity and Port Macquarie Town Centre further afar, there is not envisaged to be an adverse impact upon the existing centres.

It is important to note that this centre will also have a tourist component with the Googik Track well publicised and well utilised by residents and visitors to the area.

The proposed rezoning will still allow for the primacy of the Port Macquarie CBD to be maintained, as well as the overall retail hierarchy. This proposal addresses a void in local centres in the immediate area.

This site was not identified in the UGMS as an economic priority or opportunity given that the Planning Proposal invited was based on residential purposes, which are no longer being pursued.

### 3.5 Is the planning proposal consistent with applicable State Environmental Planning Policies?

In assessment against the relevant State Environmental Planning Policies (SEPP) is shown in the following table.

SEPP	Comment
No. 44 – Koala Habitat Protection	<p>This policy encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent wild populations will be maintained over their present range.</p> <p>The site is completely void of vegetation and is not identified on Council's map as having koala habitat.</p>
State Environmental Planning Policy (Coastal Management) 2018	<p><i>The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:</i></p> <p><i>(a) managing development in the coastal zone and protecting the environmental assets of the coast, and</i></p> <p><i>(b) establishing a framework for land use planning to guide decision-making in the coastal zone, and</i></p> <p><i>(c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.</i></p> <p>The Planning Proposal does not affect the natural attributes of the NSW coast. The site is cleared and filled therefore the rezoning will not impact upon the adjoining Nature Reserve. The future uses will in fact enhance the cultural and recreational use of the site and the Googik Track.</p> <p>Below is an extract of the SEPP mapping which identified a small portion along the boundaries as being affected by wetlands proximity area mapping. Development is not precluded from the proximity area and given the location, it is unlikely to be affected by development.</p>



Figure 10 – Extract SEPP Coastal Management) 2018

SEPP	Comment
Rural Lands 2008	<p><i>The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The SEPP contains a number of "Rural Planning Principles" that must be considered in preparing any planning proposals affecting rural lands.</i></p> <p>The purpose of this SEPP is to prevent the loss of rural lands and maintain the rural settlements and lifestyle. The site, whilst zoned RU1, does not form part of a rural settlement or contribute to the rural lifestyle given it is a residue allotment from a previous rezoning and subsequent residential subdivision.</p> <p>The Rural Planning Principles have been considered, however given the location, constraints and history of the site many of the Principles are not applicable. The residue land has resulted from the original residential subdivision. This land was surplus to Council's needs for a park and use for local conveniences is in keeping with the surrounding residential subdivisions. Had it been known at the time that the whole area was not required for a park, this land could have been rezoned with the remainder of the area.</p> <p>Further, considering the minimum Lot Size for RU1 Zone the site not does allow for development of a dwelling house as per the requirements.</p> <p>In recognition of the importance of rural lands and agriculture the site is considered too small for rural and agricultural purposes within an urban context and as such the purpose of this planning proposal for rezoning.</p> <p>The site does not contain vegetation and has no unmanageable environmental constraints, therefore maintaining the biodiversity and protection of natural resources is not relevant.</p>
No. 55—Remediation of Land	SEPP 55 requires consideration to be given prior to rezoning land, as to whether or not the site is contaminated. Council will confirm where further investigation is required, however this has occurred as part of the overall development Crestwood.

### 3.6 Is the planning proposal consistent with applicable Ministerial Directions (S9.1 directions)?

The below table is a review of the proposal against the relevant S9.1 Ministerial Directions.

Direction	Comment
1. Employment and Resources	<i>1.1 - Business and Industrial Zones</i>
1.1 Business and Industrial Zones	<p>This proposal includes a small parcel of commercially zoned land (5027m<sup>2</sup>) to facilitate the provision of a component of retail/business/commercial, with a café and toilets which provide a rest stop. This facility will be primarily for the users of the Googik Track which adjoins the site, however may also be utilized by surrounding residents and users of the park. The addition of this small pocket of commercial land will not alter the hierarchy of commercial land within the Port Macquarie area, will not impact upon existing employment land and does not alter the viability of the identified strategic centres. This facility is smaller than a Neighbourhood Centre in Lighthouse and the total potential floor space area for employment lands in the area is not expected to be reduced by this proposal. There is a strong demand from the existing and future residents, as well as the users of the playground and Googik Track for this low scale local centre.</p> <p>The objective of this Direction is to encourage growth in suitable locations and to protect existing business zones and identified centres. This is met by the proposal as there is a clear absence of the local centres which support the needs of the residents in this area. This additional local centre will not adversely impact on the existing centres.</p>
1.2 Rural Zones	
1.3 Mining, Petroleum Production and Extractive Industries	
1.4 Oyster Aquaculture	
1.5 Rural Lands	

Direction	Comment
	<p><b>1.2 - Rural Zones</b></p> <p>The proposal is inconsistent with the direction as it rezones land from rural to business purposes. This inconsistency is permitted by the Direction given that it “is of minor significance”. The land is a residue parcel of RU1 Land which remained after the rezoning and subdivision for residential purposes on the remainder of the site. This portion of land was to be for open space purposes however the full site is not required by Council and as such the remaining 5027m<sup>2</sup> requires a change of zoning to allow it to be utilized. It is not currently being used for rural purposes and is to be surrounded by residential land. Further, the current zoning and minimum lot size renders the site unusable.</p> <p><b>1.5 - Rural Lands</b></p> <p>The purpose of this SEPP (Rural lands) is to prevent the loss of rural lands and maintain the rural settlements and lifestyle. The site, whilst zoned RU1, does not form part of a rural settlement or contribute to the rural lifestyle given it is a residue allotment from a previous rezoning and subsequent residential subdivision. This inconsistency is permitted by the Direction given that it “is of minor significance” and is complies with the objectives of the SEPP.</p>
<p>2. Environment and Heritage</p> <p>2.1 Environment Protection Zones</p> <p>2.2 Coastal Protection</p> <p>2.3 Heritage Conservation</p> <p>2.4 Recreation Vehicle Areas</p> <p>2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs</p>	<p><b>2.2 Coastal Protection</b></p> <p>The Planning Proposal does not affect the natural attributes of the NSW coast. The site is cleared, and the rezoning does not impact upon the adjoining Nature Reserve. The future uses will in fact enhance the residential area, as well as the cultural and recreational use of the site and the Googik Track.</p> <p><b>2.3 Heritage Conservation</b></p> <p>Refer to the accompanying Aboriginal Land Council documentation, identifying no issues of heritage significance.</p>
<p>3. Housing, Infrastructure and Urban Development</p> <p>3.1 Residential Zones</p> <p>3.2 Caravan Parks and Manufactured Home Estates</p> <p>3.3 Home Occupations</p> <p>3.4 Integrating Land Use and Transport</p> <p>3.5 Development Near Licensed Aerodromes</p>	<p><b>3.4 Integrating Land Use and Transport</b></p> <p>As this proposal creates commercial land, this Direction applies. The Crestwood area is serviced by Busways Route 324, which is within walking distance of the site and provides access into the centre of Port Macquarie to the north and Lighthouse Plaza to the south. Further, the Googik Track adjoins the site which provides access to Lake Road and onto St Columba Anglican School and the Innes Lake area.</p>
<p>4. Hazard and Risk</p> <p>4.1 Acid Sulfate Soils</p> <p>4.2 Mine Subsidence and Unstable Land</p> <p>4.3 Flood Prone Land</p> <p>4.4 Planning for Bushfire Protection</p>	<p><b>4.1 Acid Sulfate Soils</b></p> <p>Council will advise as to whether further investigation of Acid Sulfate Soils is required. Given the approved fill on the site it is likely that the change of use is appropriate with respect to acid sulfate soils.</p> <p><b>4.3 Flood Prone Land</b></p> <p>The land has been filled to above the flood planning level with Council approval, which will make the land suitable for commercial development and also mitigate Acid Sulfate Soils.</p> <p><b>4.4 Planning for Bushfire Protection</b></p> <p>A Bushfire report has been prepared and accompanies this Planning Proposal with respect to the bushfire impacts from surrounding land. Appropriate APZ can be adequately be accommodated on site. Further, the site adjoins a fire trail. Whilst not formalized on title, the fire trail has been in existence for many years and is unlikely to be removed. From investigations, it is noted that the required APZ's will be considerable on the site and as such the height limit is reflective of the need to go up to accommodate these requirements.</p>

Direction	Comment
	<p>The site being developed for commercial purposes can achieve adequate bushfire protection measures with adequate buffers to the adjoining Lake Innes Nature Reserve and the playground and dwellings as identified in the Bushfire report. There is not a prescribed APZ (defendable space) width for commercial development. In this regard the BCA fire spread standards used as a guide to determine the defendable space width. The BCA fire spread standards are based upon building class and size. The range of fire spread standards is typically 6m - 10m. The site proposes to use a 10m buffer as the APZ (defendable space) standard. Within this buffer car parking, access, and/or path could be proposed forming part of the defendable space/APZ.</p> <p>An indicate building and parking location was developed (shown in Figure 5 above) which provides certainty that a commercial / retail / business use could be achieved on the site.</p> <p>Council raised concerns regarding limited residential uses which are permitted in the B1 zoning. The landowner is proposing to be proactive and place a restriction on the title which prohibits residential use of the site. Council would be the responsible authority to control any variation to this restriction, which is not anticipated to occur. It is clear from the discussions with Council's Bushfire Officer that residential use of the land cannot be achieved due to bushfire constraints. Therefore, allowing a residential land use in the zone such as shop top housing would not be able to be achieved due to bushfire constraints, despite the zoning.</p> <p>Planning for <i>Bushfire Protection 2018</i> has been considered for the purposes of this Planning Proposal for a rezoning.</p>
<p>5. Regional Planning</p> <p>5.1 Implementation of Regional Strategies (Revoked 17 October 2017)</p> <p>5.2 Sydney Drinking Water Catchments</p> <p>5.3 Farmland of State and Regional Significance on the NSW Far North Coast</p> <p>5.4 Commercial and Retail Development along the Pacific Highway, North Coast</p> <p>5.5 Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA) (Revoked 18 June 2010)</p> <p>5.6 Sydney to Canberra Corridor (Revoked 10 July 2008)</p> <p>5.7 Central Coast (Revoked 10 July 2008)</p> <p>5.8 Second Sydney Airport: Badgerys Creek</p> <p>5.9 North West Rail Link Corridor Strategy</p> <p>5.10 Implementation of Regional Plans</p>	<p><i>5.10 Implementation of Regional Plans</i></p> <p>In accordance with North Coast Regional Plan 2036, this site is a prime opportunity to accommodate a local centre without adverse environmental impacts or loss of agricultural land. The small commercial component does not impact upon the strategies.</p>
<p>6. Local Plan Making</p> <p>6.1 Approval and Referral Requirements</p> <p>6.2 Reserving Land for Public Purposes</p> <p>6.3 Site Specific Provisions</p>	<p><i>6.1 Approval and Referral Requirements</i></p> <p>Council will provide guidance.</p>

## Section C - Environmental, social and economic impact

### 3.7 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 planning proposal does not impact on threatened species, populations or ecological communities of the habitat. The site does not have ecological value and is cleared. Having regard to the high level of disturbance and absence of biodiversity values identified for the site, it is considered unlikely that any threatened species, populations or ecological communities would be adversely affected because of the proposal.

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

#### Bushfire

The site is identified as being within the buffer on the bushfire maps, as shown in Figure 11 below. The buffer does not preclude development from occurring on the site for commercial purposes. Appropriate asset protection zones can be accommodated within the site and a fire trail adjoins the site.

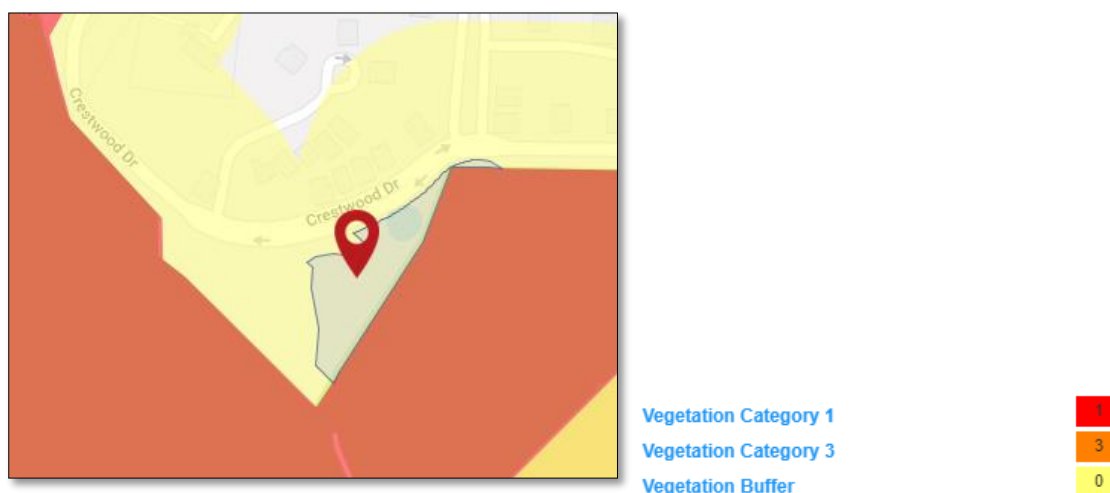


Figure 11 - Bushfire Map (source: [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au))

As outlined earlier, following on from the pre-lodgement meeting, on-going discussions, including a site inspection, were held with National Parks & Wildlife Services regarding the previous agreements regarding a fire trail on their adjoining land and options for formalizing the trail on title. At the end of the discussions over a period of many months, it was agreed that all bushfire requirements must be contained on site, notwithstanding that the fire trail on the ground on the adjoining land and that it is likely to continue. A formal written agreement could not be reached with NPWS for continued maintenance and formalization of the fire trail.

It is to be noted, the defendable spaces required for business uses will extend considerably into site but can be accommodated in a design for most business uses. However, there is large areas still unable to accommodate the building and therefore a need for increased height. However, this site can accommodate the height due to separation to the adjoining dwellings and unique characteristics.

An initial bushfire assessment has been undertaken and submitted as part of this rezoning request, demonstrating that commercial or business purposes can be accommodated on the site with all necessary bushfire requirements accommodated on site.

Council raised concerns regarding limited residential uses which are permitted in the B1 zoning. The landowner is proposing to be proactive and place a restriction on the title which prohibits residential use of the site. Council would be the responsible authority to control any variation to this restriction, which is not anticipated to occur. It is clear from the discussions with Council's Bushfire Officer that residential use of the land cannot be achieved due to bushfire constraints. Therefore, allowing a residential land use in the zone such as shop top housing would not be able to be achieved due to bushfire constraints, despite the zoning.

## Flooding

Mapping supporting Council's LEP 2011 identifies the site as flood liable land (refer Figure 12).

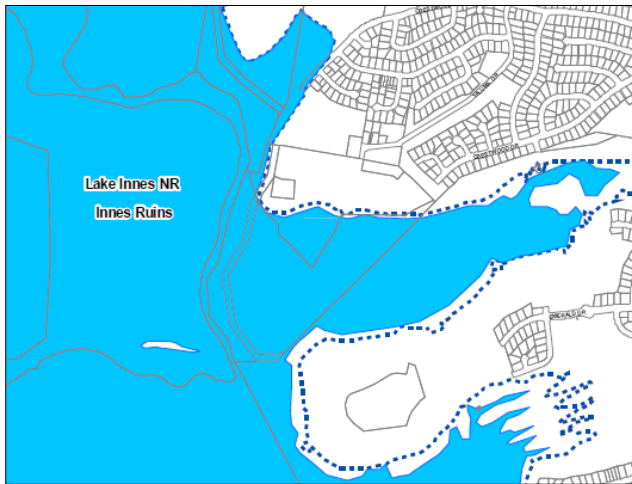


Figure 12 - Flooding Map (source: [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au))

The site has been filled and levelled, as approved by Construction Certificate 2010/0572. The figure below illustrates the current finished levels and total fill volume of 10320m<sup>3</sup> for the site after the fill was completed. As the site has been filled to above the flood planning level, the land is suitable for commercial development and also mitigates Acid Sulfate Soils. No additional fill is envisaged to facilitate development.

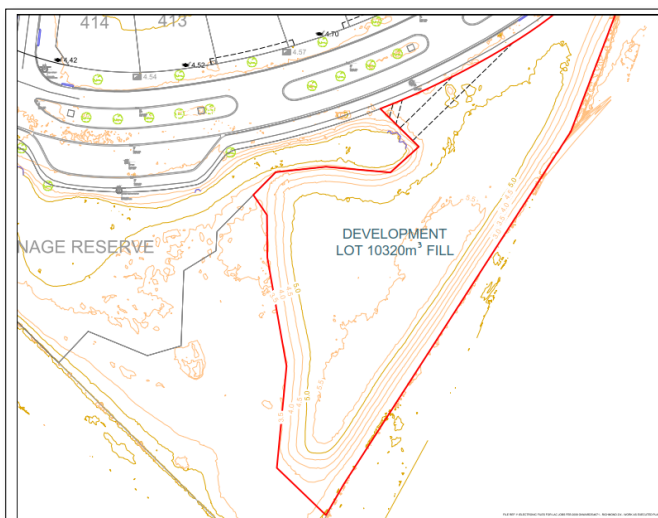


Figure 13 - Development Lot Fill prepared by Land Dynamics

## Residential Amenity

There is unlikely to be a conflict between the small portion of local centre zoned land and the surrounding area. The purpose of the commercial portion is to provide a small component, providing a service for the surrounding residents. This may include a Business premises; Community facilities; Medical centres; Neighbourhood shops; Neighbourhood supermarkets; Respite day care centre; café with toilets and refreshments for users of the Googik Track which passes by the site. It will also service the users of the park and the local community being constructed as part of the approved staged subdivision.

The amenity of the locality is not detrimentally affected by the existing land use. The current zoning does not allow the proposed uses. The planning proposal amends and enables the land to be compatible with the surrounding residential land uses. It is anticipated the local amenity will not be detrimentally affected by the rezoning and redevelopment.

The site contains no land use conflicts as identified in Figure 14, together with no heritage or amenity impacts. Based on the prime location with interfacing to the adjoining proposed park and National Park, the site is considered to have substantial community benefits with providing commercial land use to become available.

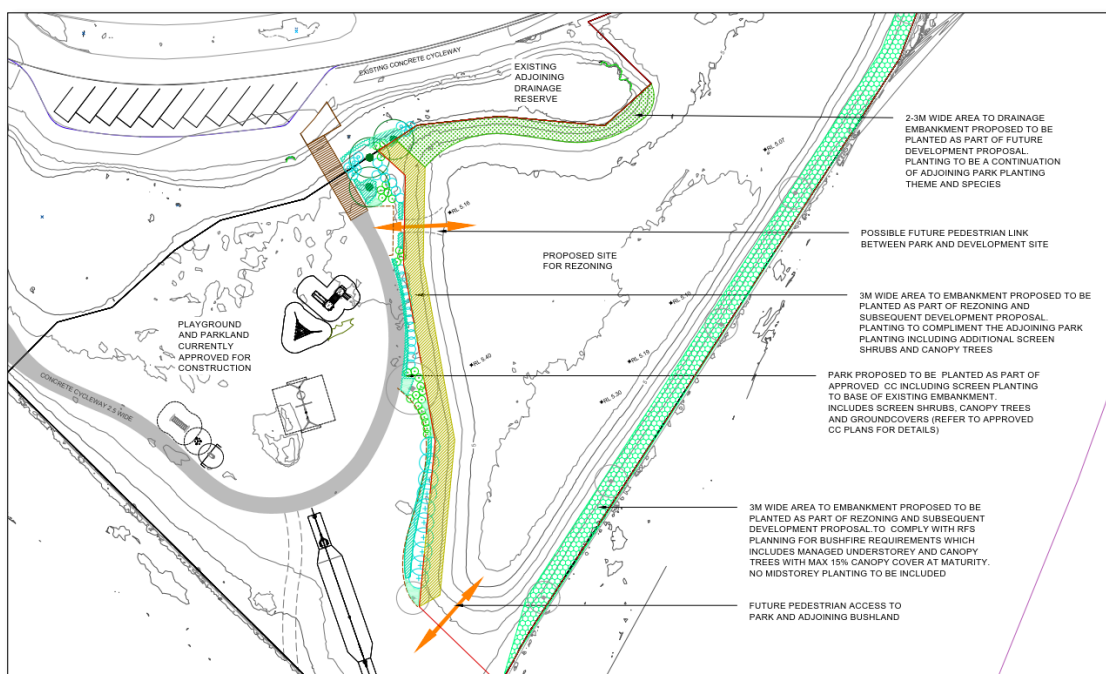


Figure 14 - Indicative Open Space Management Plan prepared by Land Dynamics

There is an opportunity in the detailed design of the built form and landscape design to provide a good interface to the playground and drainage basin, addressing the levels and connectivity. The basis of the land uses being commercial / retail will most likely ensure the site interacts with the playground, via uses such as a café.

The existing residential estate of Crestwood has been completed to a high standard of visual amenity and outstanding streetscape, which would be able to be continued onto this site once rezoned, which is a far superior visual outcome than the existing situation on ground.

## Birpai Local Aboriginal Land Council

An Aboriginal Cultural Assessment Report, dated 27 July 2018, has been prepared and accompanies this Planning Proposal, with Recommendations stating:

*"There are no objections to the development commencing, but the following recommendations are made:*

1. *Should any artefacts be turned up or located, Birpai Local Aboriginal Land Council are to be contacted immediately and work on site stopped pending further assessment.*
2. *Signage on the remaining land should be erected identifying that this land belongs to the Birpai people."*

These comments are reflective of Council's standard conditions imposed on any future Development Application

### **3.9 How has the planning proposal adequately addressed any social and economic effects?**

The proposal includes potentially positive social and economic benefits through employment generation within the small commercial precinct, as well as through the construction process for both zones.

The provision of a business facilities which could include commercial and retail uses, community facilities, medical centres, Neighbourhood shops; Neighbourhood supermarkets along with food and drink premises, which may also include toilets and refreshments for users of the Googik Track, the playground and surrounding residents will have a positive community benefit with users being more active and enjoying the local facilities. It is not considered that the business component will be a major attractor in its own right due to its small size and will complement the residential and recreational areas surrounding, providing day to day conveniences.

Should the application proceed to Gateway, a detailed Supply and Demand assessment can be prepared. It is noted that the UGMS is heavily focuses on large commercial or industry precincts such as the Health and Education and Airport Precinct in business and economic growth. This form of local centre has been largely ignored and it is clear from a quick review of Crestwood and surrounding existing facilities, that there is a clear need for this form of small scale commercial or retail land use. Refer to the attached document regarding supply and demand, which provides an indication of the nearby business centres and the distance from the site. It clearly demonstrates a need for this form of centre for the residents of Crestwood and also nearby estates.

## **Section D - State and Commonwealth interests**

### **3.10 Is there adequate public infrastructure for the planning proposal?**

Given the small scale of the planning proposal, being infill development within an existing approved staged subdivision, there is not expected to be additional unreasonable demand on the road network, open space, waste facilities or local emergency services. The area is already serviced with all necessary public infrastructure in place.

There is no need to upgrade existing infrastructure, with extension of services easily achieved. Refer to the Stormwater and Services Plan in Figure 15.

The purpose of the B1 zoning was to provide business services which assist the residents, users of the park and the Googik Track. None of these generate significant traffic in their own right and the pathway network in Crestwood allows for walking to the site to be highly utilised.

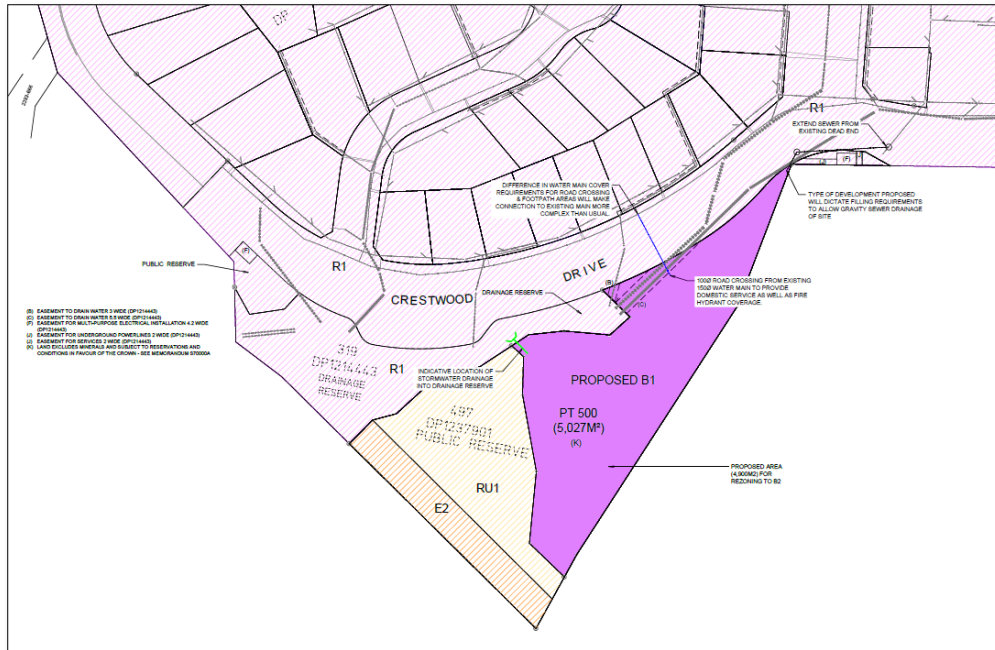


Figure 15 - Stormwater & Services Plan

### 3.11 What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway determination?

We have consulted with both National Parks and Wildlife Service (NPWS) as the adjoining land owner and the Rural Fire Service (RFS) regarding the bushfire issues relating to the site. There are no other external authorities identified for consultation, which reflects the minor nature of the planning proposal.

A pre-lodgement meeting has been held with Council to discuss the Planning Proposal. Council has advised that the Planning proposal has merit and requested a formal submission to Council for inclusion within Council's Strategic Planning Program.

## PART 4 – MAPPING

An Indicative LEP Zoning Map below Figure 16 has been drafted at this stage and will be prepared in consultation with Council.

Additional draft plans will be prepared in consultation with Council including Floor Space Ratio Map and Height of Building Map. It is proposed the Floor Space Ratio be 1.5:1, and proposed building height at 11.5m.

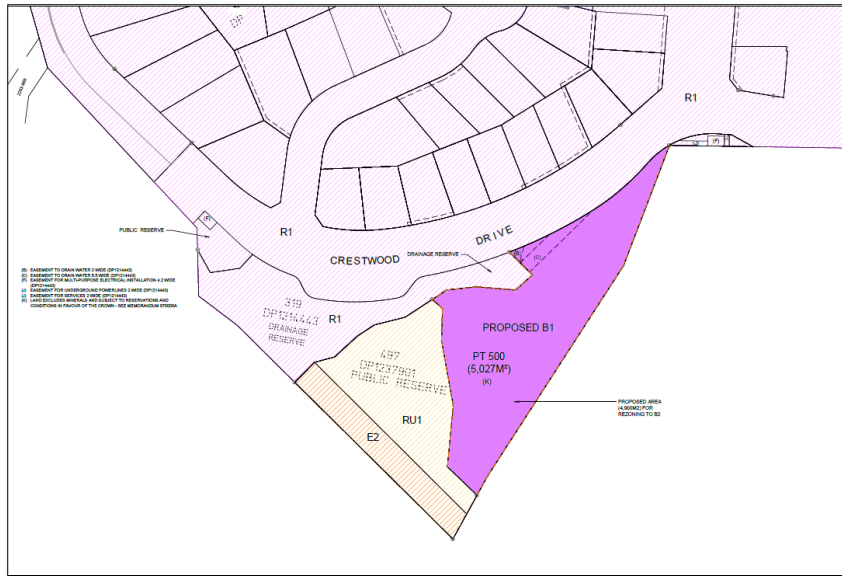


Figure 16 - Indicative LEP Zoning Map

## PART 5 – COMMUNITY CONSULTATION

The planning proposal will be placed on public exhibition by Council in accordance with the Department of Planning and Environment's *A Guide to Preparing Local Environmental Plans*. The proposal is considered to be 'low' impact as it is consistent with the pattern of surrounding land use zones and/or land uses, 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.

## PART 6 – PROJECT TIMELINE

There is desire for this rezoning to occur concurrently with a Development Application being lodged once Gateway determination is received. This will allow the commercial development of the land to occur concurrently or within a reasonable timeframe following completion of the larger approved subdivision and playground. It is ideal for work to be undertaken concurrently with the remainder of the residential subdivision and playground, and to minimise disruption for future users of the park.

Below is an indicative timeframe.

April 2019	Anticipated commencement date (date of Gateway determination)
May 2020	Anticipated timeframe for the completion of required technical information
June 2020	Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)
July 2020	Commencement and completion dates for public exhibition period
August 2020	Timeframe for consideration of submissions
September 2020	Timeframe for the consideration of a proposal post exhibition
October 2020	Date of submission to the Department to finalise the LEP
November 2020	Anticipated date the local plan-making authority will make the plan (if authorised)
December 2020	Anticipated date the local plan-making authority will forward to the PCO for publication

## CONCLUSION

Consideration is sought from Council for progression of this Planning Proposal to enable the rezoning to B1 Neighbourhood Centre will allow for complementary business uses for daily conveniences for the residential housing stock for the area, as well as visitors to the park and users of the Googik Track.

The existing zoning for rural purposes was acceptable when the land was being dedicated to Council for open spaces purposes. Subsequently Council has advised that they do not wish to be burdened with the entire site and as such a residue parcel has resulted. The site has an area of 5027m<sup>2</sup> which is well below the minimum lot size for the RU1 zone and the site is unusable in its current state, with no dwelling entitlement. The existing rural zoning of the land is incompatible with the surround residential estate and proposed playground and as such the proposed rezoning will provide for more appropriate and complimentary land uses.

Given that this portion of land is surplus to Council's needs, the Planning Proposal is considered appropriate and allows a sustainable use of the land and provision of additional housing for the locality.

Progression of this Planning Proposal for Gateway determination is requested.

## APPENDICES

1. Pre-lodgement Notes
2. Proposed Zone Map
3. Indicative Open Space Management Plan
4. Indicative Stormwater and Services Plan
5. Indicative Buffer Plan
6. Aboriginal Cultural Heritage Assessment dated 27 July 2018 prepared by Birpai Land Council
7. Bushfire Report dated 24 July 2019 prepared by David Pensini
8. Indicative Conceptual Site Plan for Commercial Purposes
9. Initial Business Supply & Demand Review

19 February 2020

Job No. 4671

The General Manager  
Port Macquarie Hastings Council  
Corner Lord and Burrawan Street  
**PORT MACQUARIE NSW 2444**

Attention: Leanne Fuller

Dear Leanne,

**Re: Planning Proposal – Crestwood Drive, Port Macquarie - Site Specific Planning Proposal - B1  
Neighbourhood Centre**

I refer to Council's latest letter dated 10 December 2020 regarding the Site Specific Planning Proposal for Part Lot 500 DP 1237901, Crestwood Drive, Port Macquarie which proposed rezoning to B2 Local Centre. Thank you for Council's time to meet to discuss the issues.

Council's letter states:

*"As discussed at the meeting, Council staff are not supportive of a "commercial/business" zoning of the site generally for the reasons outlined in our letter of 20 November 2019, and having regard to the commercial centres hierarchy in the UGMS.*

*A pathway for a potential future zoning of the land has been offered in Council's correspondence (E3 Environmental Management), or potentially an RE2 Private Recreation zone as also discussed at the meeting. Please note the significant bushfire issues a commercial zoning of any type would encounter, due to the enabling of residential uses in either a B1 Neighbourhood Centre or B2 Local Centre zone."*

We have amended our Planning Proposal request to seek a commercial zoning over the entire site to B1 Neighbourhood Centre.

We have taken on board the discussion and the issues outlined above and am aware of the key principal issue with the previously proposed residential zone, and the current proposed business zone, relates to bushfire. It is clear from the discussions with Council's Bushfire Officer that residential use of the land cannot be achieved due to bushfire constraints. Therefore, allowing a residential land use in the B1 zone such as shop top housing would not be able to be achieved due to bushfire constraints, despite the zoning.

Whilst bushfire would prevent specific land uses at the Development Application stage when a full assessment of a specific land use is known and able to be undertaken, the landowner is proposing to be proactive and place a

restriction on the title which prohibits residential use of the site. Council would be the responsible authority to control any variation to this restriction, which is not anticipated to occur.

There is local support and community pressure from the local Crestwood community group for commercial / retail uses adjacent to the park. Business use of this land would not only benefit the local residents of Crestwood but further afield to nearby estates such as Dahlsford, as well as the wider community who are users of the Googik Track. The proposed zoning will improve the liveability of the Crestwood estate and overall health of the residents.

We respectfully note Council's suggestions for E3 Environmental Management or RE2 Private Recreation zones, however they are very restrictive and do not allow for the community demand in this area to be satisfied.

Council also raised a concern regarding the impacts upon the Retail / Commercial hierarchy of the wider area, however we have addressed this within the Initial Business Demand Supply Review, which clearly identifies a gap and that no new centres in this southern Lighthouse / Dahlsford / Emerald portion of Port Macquarie has been developed for some time and is overdue.

The landowner has continuously indicated a desire to create a café and similar commercial or retail uses which have a wider for community benefit. The provision of amenities and drinking water facilities for the park and Googik Track encourage physical and social activities, enhances the park and provides greater interaction of the wider community, in addition to servicing the residents of Crestwood. The B1 zoning will allow for a small commercial / retail community hub, with both local and broader benefits.

As indicated previously to Council, development of this isolated rural parcel of land in accordance with the existing zoning is unlikely to result in an outcome incompatible with the surrounding residential estate and undesirable for the residents. Alternatively, remaining in its current state is also undesirable.

The landowner is also keen to explore opportunities within the commercial use of the land to incorporate clean energy initiatives, for example installation of solar panels to feed power straight into grid, which will have additional community and environmental benefits.

There is an increasing community support from the residents of Crestwood, which is intensifying as the estate is expanding. There has been for many years previous Council officer support (which resulted in the request by Council to lodge the Planning Proposal) and current and previous elected Councillors for a low scale business centre with facilities for the local community to assist with their day-to-day needs, provide a social meeting space through cafes, amenities including drinking fountains and toilets and shade areas.

This parcel of land is residue and has the opportunity to be the central hub of the estate. The rural zoning of the site is unsuitable and there is need for a suitable infill development which has a benefit to the landowner and the community, rather than leaving an overgrown residue piece of land in a prominent location, frequented by not only residents by visitors to the area.

Whilst the zoning being sought is for business purposes, the commercial businesses that are likely to be provided on this land will comprise uses such as cafes, restaurants, doctors, convenience store and the like. These all contribute to bringing the community together through these land uses and have far wider positive social impacts for the local and broader community.

There is a strong ownership by the community of the playground and this would be extended to the business facilities. It is anticipated this land would benefit the community, as originally anticipated in the development consent for a larger park and drainage. There would be a boost to the local economy, as well as the tourist sector, given the connections to residential areas and the Googik Track, which is promoted wider in the region, as well as state-wide through NPWS and NSW tourism.

The development of the land would be easily translatable into the development assessment process once rezoning to B1 occurs given the extensive bushfire investigations and fill works already undertaken.

We now make a further submission of a Planning Proposal for B1 Neighbourhood Centre and associated Appendices, which address the legislative requirements, the Pre-lodgement meeting minutes, and Council's letter dated 10 December 2020. We welcome the opportunity to discuss further and look forward to the Planning Proposal being reported to Council and proceeding to the Department of Planning for Gateway determination.

Yours faithfully

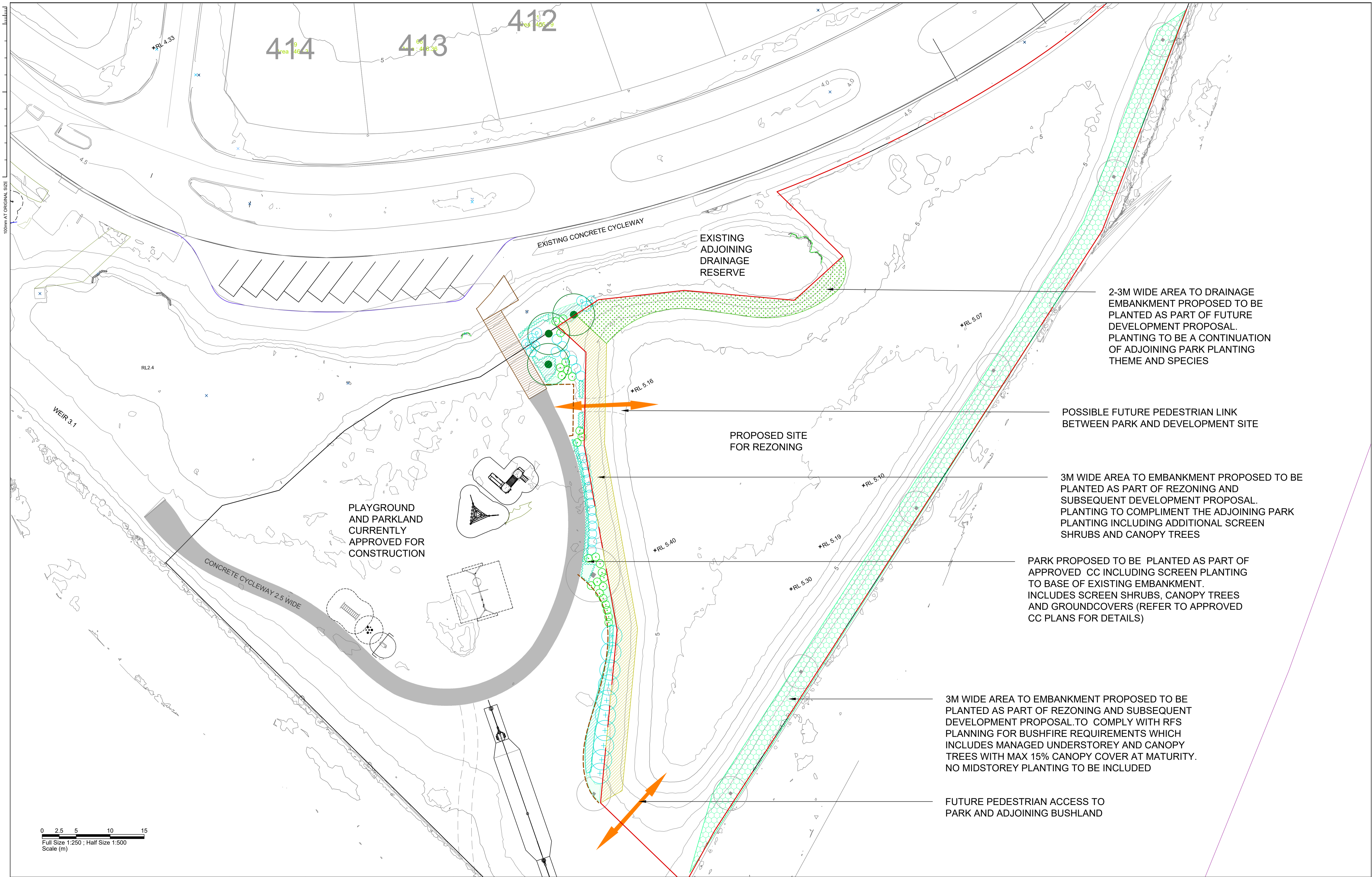


Graham Burns

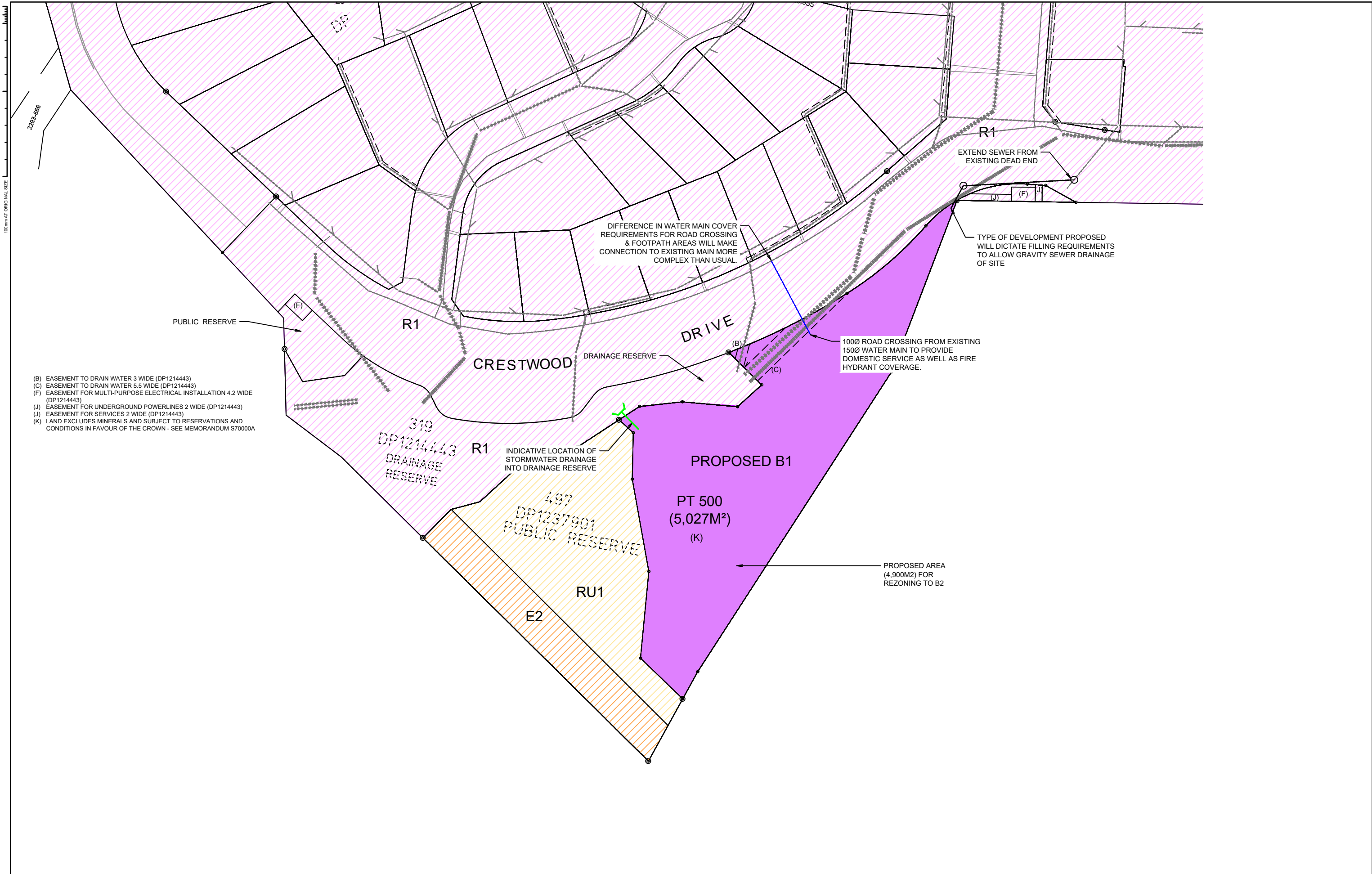
Director – Land Dynamics Australia

**Attachments: B1 Planning Proposal & Appendices 1 to 8**

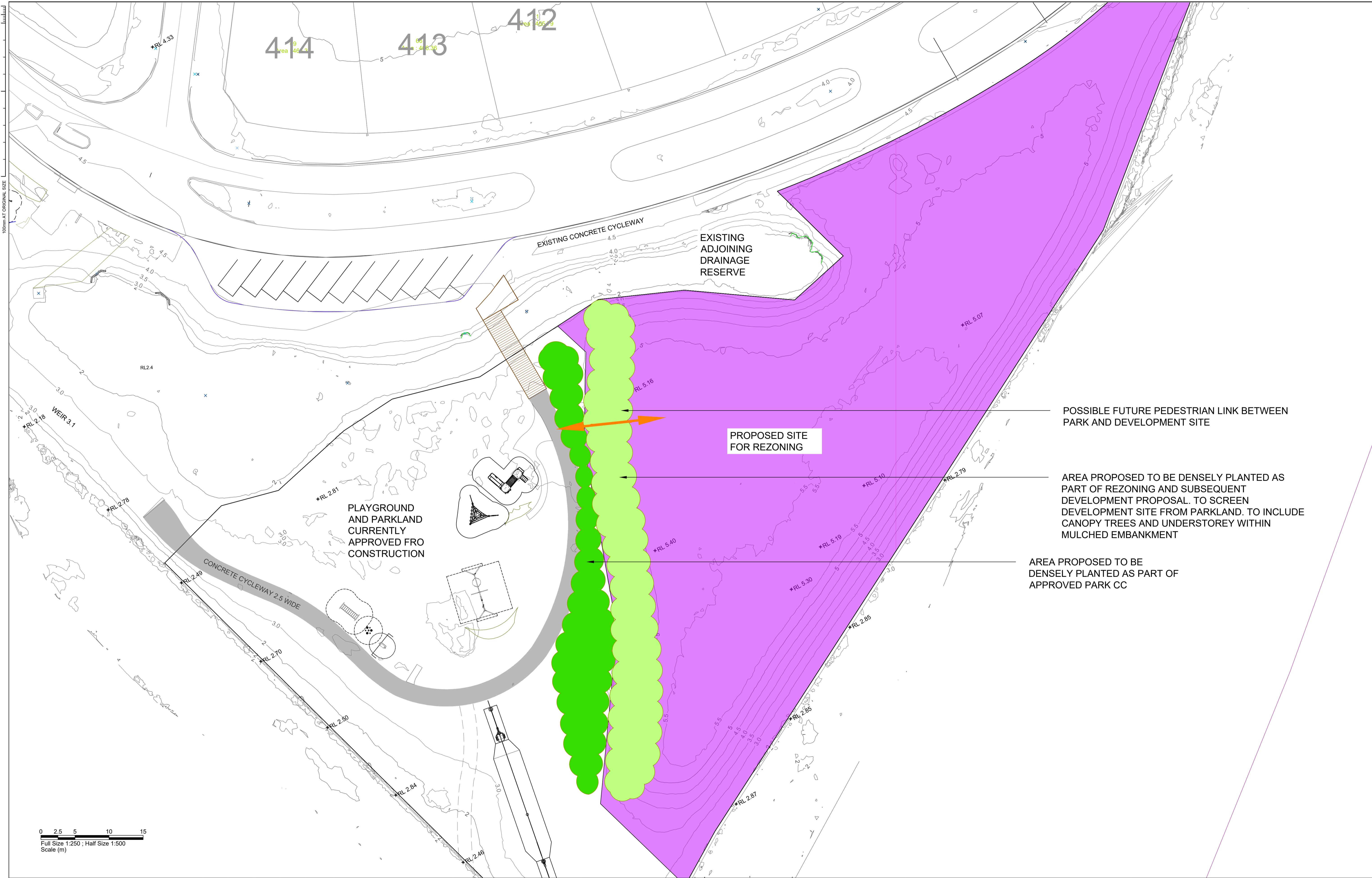



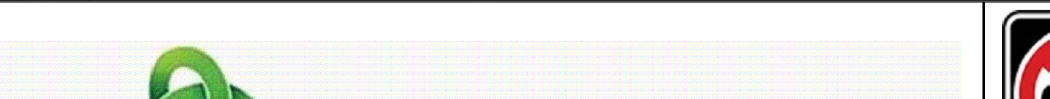



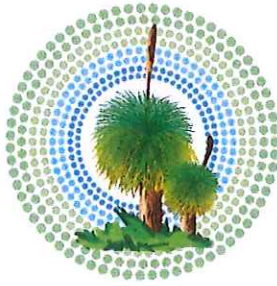
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A	REZONING APPLICATION	16.08.18	CM					www.landynamics.com.au 77 Lord Street Port Macquarie NSW 2444 P: 02 6583 2677				DRAWING TITLE: OPEN SPACE MANAGEMENT PLAN			
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								PRELIMINARY ISSUE NOT FOR CONSTRUCTION				LAND DYNAMICS JOB No.: 4671			
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B	REZONING APPLICATION	30.07.19	CM				Full Size 1:500; Half Size 1:1000					DRAWING TITLE:
C	REZONING APPLICATION	17.02.20	AC				Scale (m)					PROPOSED SERVICING PLAN
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							DRAWING TITLE: <b>PROPOSED PLANTING BUFFER ZONE</b>	ORIGINAL SIZE: <b>A1</b>	LAND DYNAMICS JOB No.: <b>4671</b>				DRAWING No.: <b>0001</b>	REV: <b>A</b>		
A	REZONING APPLICATION	16.08.18	CM													
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# Birpai Local Aboriginal Land Council

## *Aboriginal Cultural Heritage Assessment*

*Part Lot 123 DP 1196827 Crestwood Drive*

*Port Macquarie*

*Prepared by*

*Birpai Local Aboriginal Land Council*

*In response to a*

*Rezoning proposal by Land Dynamics*

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# 1. Introduction

The subject land is located at Crestwood Drive Port Macquarie (part lot 123 DP 1196827). The land is under 1ha in size and is located approximately 5km southwest of the Port Macquarie CBD. The land is cleared and has been set aside as a Council reserve, but is superfluous to Council's needs so is proposed to be rezoned and included in the residential subdivision.

The objectives of the Cultural Heritage Assessment are:

- To identify whether the subject land contains objects or is a place of importance or a part of the wider cultural landscape pertaining to local aboriginal people and the area.
- To determine if any potential harm on identified Aboriginal Cultural heritage would be likely to occur from the proposed rezoning and future development of the southern fringe of the land for residential uses.
- To determine the significance of potential harm to any identified Aboriginal objects, places or wider cultural heritage that may be associated with the subject land, should that be the case.

This report has been prepared for Land Dynamics for their proposed rezoning. It is not to be used for any other purpose

## 2. Investigator and Contributors

The Site Investigations have been undertaken by:

Mr. Jason Holten, Sites Officer of the Birpai Local Aboriginal Land Council

The site investigator has significant local experience in carrying out site survey investigations and regularly undertakes Sites works in the Port Macquarie area. Mr. Holten has a wealth of knowledge of Aboriginal Culture and Heritage in the local area.

## 3. Previous Archaeological work

Search of the Aboriginal Heritage Information Management System (AHIMS) – Basic search conducted 27 July 2018 using Longitude and Latitude coordinates with a buffer of 50 m.

- Basic search identified no Aboriginal Places and no Aboriginal Site in the vicinity of the 50 m buffer.
- Cultural Heritage records held with Birpai Land Council include:

The Birpai Local Aboriginal Land Council holds no records of any items of cultural significance in the vicinity of the land in question.

Of the above resources, references to this area and the Birpai Aboriginal People were the primary search focus. Information relevant to the site or its immediate surrounds was identified as follows:

There are no known aboriginal cultural heritage sites within the subject land. Especially in the area of the proposed residential land.

## 4. Landscape context

### General Coastal character & predictive model

The results of reviews of archaeological investigations to date indicate that rocky shore, sandy beach, estuarine and hinterland environments were typically utilised by Aboriginal groups. The densest and most diverse archaeological remains are generally found along the coast where food resources were richer. Reliance on estuarine and adjacent hinterland areas was probably sporadic, possibly using freshwater swamps as a primary resource.

A large proportion of recorded sites indicate they have been found on flat terrain, predominantly in coastal heath, along estuarine stream banks, some woodland and dry sclerophyll eucalypt forest and in subtropical rainforest. Less commonly, sites are also found in undulating to hilly terrain either in dry sclerophyll eucalypt forest. Even less so in steep rugged terrain.

There is a greater likelihood of the existence and discovery of Aboriginal sites into the coastal plain. Particularly the crests and basal slopes of low spurlines that extend into and are situated adjacent to flood prone valley floors.

Stone artefacts may occur as open artefact scatters and isolated finds. Midden deposits may occur subsurface on former beach ridges and other alluvial or colluvial deposits which fringe valley floors. Including the former shoreline of the marine embayment and subsequent estuary which formed following the last sea level rise at around 6000 years BP.

Open artefact scatters (or campsites) are considered more likely to occur on relatively flat terrain, well-drained and not too distant from sources of freshwater or along the crests of low ridgelines.

Scarred trees may occur wherever old-growth trees remain. Potential locations include road reserves, remnant riparian vegetation on farmlands, and isolated trees within the state forests.

Prehistoric burial sites are most likely to be found in locally elevated landforms with a relatively deep profile of soft sediments of in the deposits of midden sites.

## Local Aboriginal History

Before European settlement, Aboriginal people roamed the area and used the land to hunt and gather food. Aboriginal ties to the land can be identified with the significant sites in and around the Port Macquarie area with some sites recorded, including burial sites at the Town Green in the CBD.

## Location of the site

The subject land is located approximately 5km southwest of the Port Macquarie CBD. The site is generally surrounded by residential land to the North and East with generally forested land to the South and West.

On site, is predominantly cleared land with no major vegetation.

## 6 Site Survey & Results

### Sampling Strategy

The sampling strategy is to attend the property by vehicle and undertake intensive walking inspection of the part of the site likely to be impacted upon by the proposed rezoning and future residential lots.

In a landscape context, this area is consistent with the landscape unit “crests and basal slopes of low spurlines that extend into and are situated adjacent to flood prone valley floors”. In this context intensive walking survey of the area is considered the most appropriate survey strategy.

The site survey was undertaken on 20 June 2018 by Mr Jason Holten, Senior Site Officer of Birpai Local Aboriginal Land Council.

### Survey Coverage

On 20 June 2018 exposure and visibility across the site is described as generally good.

No test excavations were considered necessary and were not undertaken.

## 7. Results of Survey of 20 June 2018

After walking over the proposed rezoning area the senior site officer, Mr Jason Holten noted that there had been a lot of disturbance over the years, with the removal of trees and stumps from the site and movement of topsoil. Any sign of Aboriginal activity in the area is believed to have been lost or destroyed.

Mr Holten, Senior Sites Officer who attended the property and undertook the survey concluded that no evidence of Aboriginal activity was located on the site areas, being part lot 123 DP 1196827.

### Analysis & Discussion

No site recording is required as there are no material traces, evidence or expressed knowledge of Aboriginal land use of the site.

The proposed development is not considered likely to impact upon or have any significance for the local Aboriginal community and their cultural heritage.

The assessing site officer can see no reason why the proposal cannot continue.

### Recommendation

There are no objections to the development commencing, but the following recommendations are made:

1. Should any artefacts be turned up or located, Birpai Local Aboriginal Land Council are to be contacted immediately and work on site stopped pending further assessment.
2. Signage on the remaining land should be erected identifying that this land belongs to the Birpai people.

Signed



Mr David Carroll

CEO - Birpai Local Aboriginal Land Council

# **BUSHFIRE PLANNING REPORT**

**PROPOSED REZONING**

**PART OF LOT 500 DP 1237901  
CRESTWOOD DRIVE,  
PORT MACQUARIE**

**CLIENT:  
RICHMOND HORIZONS  
PTY LTD**

**JULY 2019**

*This report has been prepared by David Pensini – Building Certification and Environmental Services with all reasonable skill, care and diligence for Richmond Horizons Pty Ltd.*

*The information contained in this report has been gathered from discussions with representatives of Richmond Horizons Pty Ltd, a review of the plans provided on behalf of Richmond Horizons Pty Ltd and experience.*

*No inspection or assessment has been undertaken on other aspects of the proposed development outside the scope of this report.*

*This report does not imply, nor should it be implied, that the proposed development will comply fully with relevant legislation.*

*The report shall not be construed as relieving any other party of their responsibilities or obligations.*

*David Pensini – Building Certification and Environmental Services disclaims any responsibility Richmond Horizons Pty Ltd and others in respect of any matters outside the scope of this report.*

*The report is confidential, and the writer accepts no responsibility of whatsoever nature, to third parties who use this report, or part thereof is made known. Any such party relies on this report at their own risk.*



*For and on behalf of David Pensini – Building Certification and Environmental Services.*

*Prepared by: David Pensini*

*Signed:*



*Dated: 24<sup>th</sup> July 2019*

Version	Date	Information relating to report			
		Reason for issue			
1.0	22 <sup>nd</sup> July 2019		Draft		
2.0	24 <sup>th</sup> July 2019		Issued to Client		
			Prepared by	Verified by	Approved by
		Name	David Pensini		David Pensini
		Signature			

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## 1.0 INTRODUCTION

The land which comprises the subject site is known as Part of Lot 500 DP 1237901 Crestwood Drive, Port Macquarie.

It is proposed to rezone portion of the subject site so as to support the future residential development.

This report is based on site assessments carried out on 4<sup>th</sup> October 2017 and 23<sup>rd</sup> July 2019.

The purpose of this report is to demonstrate that the bushfire risk is manageable for the proposed rezoning of the subject site and to determine the bushfire protection management measures which are applicable to the future commercial development of the subject site.

The any future commercial development would not be integrated development and would not have a requirement for a Bush Fire Safety Authority under Section 100B of the *Rural Fires Act 1997*.

### NOTE

The report has been prepared with all reasonable skill, care and diligence.

The information contained in this report has been gathered from field survey, experience and has been completed in consideration of the following legislation.

1. Rural Fires Act 1997.
2. Environmental Planning and Assessment Act 1979.
3. Building Code of Australia.
4. Council Local Environment Plans and Development Control Plans where applicable.
5. NSW Rural Fire Services, Planning for Bushfire Protection, 2006.
6. NSW Rural Fire Services, Planning for Bushfire Protection, 2018.
7. AS 3959 - 2009 Construction of Buildings in Bushfire Prone Areas.
8. AS 3959 - 2018 Construction of Buildings in Bushfire Prone Areas.

The report recognizes the fact that no property and lives can be guaranteed to survive a bushfire attack. The report examines ways the risk of bushfire attack can be reduced where the site falls within the scope of the legislation.

The report is confidential, and the writer accepts no responsibility of whatsoever nature, to third parties who use this report or part thereof is made known. Any such party relies on this report at their own risk.

This report has been based upon the vegetation characteristics observed at the time of site inspection. No responsibility is taken where the vegetation characteristics of the subject site or surrounding areas is changed or modified beyond that which is presented within this report.

## 1.1 Objectives

The objectives of this report are to:

- Ensure that the proposed rezoning of the land has measures sufficient to minimize the impact of bushfires; and
- Ensure that any future commercial development of the land has measures sufficient to minimize the impact of bushfires; and
- Reduce the risk to property and the community from bushfire.

## 1.2 Legislative Framework

On 1<sup>st</sup> August 2002, the Environmental Planning and Assessment Act, 1979 and the Rural Fires Act 1997 were both amended to enhance bush fire protection through the development assessment process.

In broad terms, the planning considerations provide two main steps. These involve:

### (a) Strategic Planning through;

- the mapping of bush fire prone;
- determining suitable bush fire requirements during the preparation of a Local Environmental Plan and/or Development Control Plan; and
- the identification of the extent to which land is bushfire prone.

### (b) Development assessment through;

- obtaining a bush fire safety authority for residential or rural-residential subdivision and special fire protection purpose developments in bushfire prone areas from the Rural Fire Service (RFS);
- seeking advice from the RFS in relation to infill and other developments in bushfire prone areas that cannot comply with the requirements of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006; and
- the application of additional requirements of the Building Code of Australia (BCA) in relation to construction standards for Class 1, 2, 3, 4 and some Class 9 buildings in bushfire prone areas.

It is noted that this report focuses upon the strategic planning processes associated with the proposed rezoning of portion of the subject site.

#### **1.2.1 Strategic Planning Considerations**

Local Environmental Plans, (LEP's), and Development Control Plans, (DCP's), are the best way of strategically achieving bush fire protection objectives. Inclusion of bush fire planning provisions in an LEP:

- gives weight to bush fire management planning principles, ensuring they are considered at subdivision and construction stages;
- can allow for sufficient space to be incorporated into land use zones for setbacks and adequate access for firefighting and evacuation; and
- controls inappropriate land uses in Bushfire Prone Areas.

LEP amendments that affect Bushfire Prone Areas are required to address the planning principles of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006. Where appropriate the proposed land uses must be considered with respect to bush fire protection, (including appropriate setbacks).

If a proposed amendment to land use zoning or land use affects a designated Bushfire Prone Area, then the Section 117(2) Direction No 19 must be applied, (Section 117 of the Environmental Planning and Assessment Act, 1979) provides for the Minister for Planning to direct a council, in relation to the preparation of a draft LEP, to apply the planning principles specified in that direction. The Section 117 Direction No 19 requires councils to:

- *consult with the Commissioner of the Rural Fire Service (RFS) under section 62 of the Environmental Planning and Assessment Act, 1979, and to take into account any comments by the Commissioner; and*

- *have regard to the relevant planning principles of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006.*

If a council proceeds with a draft LEP that does not comply with the provisions in the Section 117 Direction, the council must obtain written advice from the Commissioner of the Rural Fire Service to the effect that the RFS does not object to that non-compliance.

The requirement to review LEP's in accordance with the Standard LEP is an opportunity to consider appropriate uses on Bush Fire Prone Land as well as exempt and complying development provisions.

### **1.2.2 Planning for Bushfire Protection Guideline 2006**

It is noted that *NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006* is the current reference standard for bushfire threat management for new development in NSW.

*NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006* (PfBP 2006) applies to all "development applications" on land that is classified as "bush fire prone land" (BFPL), identified on a council's BFPL map.

The general principles underlying the document are:

- protection measures are governed by the degree of threat posed to a development;
- a minimum setback from a hazard is always required, i.e. a defensible space;
- the greater the setback from the hazard, the lower the subsequent bush fire protection construction standards required;
- the smaller the interface a development has fronting the bush fire threat, the less the opportunity for bush fire to threaten the development;
- bush fire protection measures (BPM's) are contained within the 'overall' development and not on adjoining lands, other than in exceptional circumstances; and
- no development in a bush fire prone area can be guaranteed to be entirely safe from bush fires.

For development on BPL specific controls apply to residential/rural residential subdivision and "Special Fire Protection Purposes" (SFPPs) – those types of development specified in the legislation as requiring particular attention (including mandatory involvement of the Rural Fire Service).

It is also noted that PfBP 2006 also provides guidance on the bushfire threat management requirements which are applicable to other forms of development, (e.g. commercial and industrial).

#### **(i) Objectives for Commercial/Industrial Developments**

As set out in NSW Rural Fire Services, ***Planning for Bushfire Protection**, 2006*;

*'for other classes of building, (such as factories, shops and warehouses), bushfire protection measures will only apply at the Development Application stage. Consent will be developed on a case by case basis without the need to refer the development application to the RFS. However, if the council is concerned that the development does not meet the aim and objectives of NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006, then the matter may be referred to the RFS for advice. The provisions under the Building Code of Australia for fire safety will be accepted for bushfire purposes where the aims and objectives of NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006 can be met'.*

It is noted that all non-residential and non-Special Fire Protection Purpose developments, (including industrial and commercial), within bushfire prone areas are required to meet the general aims and objectives of NSW Rural Fire Services, ***Planning for Bushfire Protection**, 2006* rather than meeting the specific bushfire threat management objectives which are relevant to residential subdivision, Special Fire Protection developments and infill developments.

The general aims and objectives of NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006 which are therefore relevant to any future commercial/business development on the subject site are as follows;

- (i) afford occupants of any building adequate protection from exposure to a bush fire;
- (ii) provide for a defensible space to be located around buildings;
- (iii) provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent direct flame contact and material ignition;
- (iv) ensure that safe operational access and egress for emergency service personnel and residents is available;
- (v) provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the asset protection zone (APZ); and
- (vi) ensure that utility services are adequate to meet the needs of firefighters (and others assisting in bush firefighting).

### **1.2.3 Planning for Bushfire Protection Guideline 2018**

It is noted that NSW Rural Fire Services, **Planning for Bushfire Protection**, 2018 (PfBP 2018) is set to replace the 2006 Guideline as the bushfire threat management standards which are applicable in NSW. It is however noted that the new guideline has not as yet been formally adopted for implementation with PfBP 2006 remaining the appropriate bushfire threat management standard in NSW.

Notwithstanding this the provisions of PfBP 2018 have been considered in this report as they are likely to apply to the future development of the land once the rezoning process has been finalized.

As with PfBP 2006, Planning for Bush Fire Protection 2018 provides the development standards for designing and building on BFPL in New South Wales (NSW). PfBP 2018 provides standards for:

- strategic land use planning to ensure that new development is not exposed to high bush fire risk;
- specific provisions for creating new residential and rural residential subdivision allotments;
- specific provisions for special fire protection purpose (SFPP) development taking account of occupant vulnerability;
- bush fire protection measures (BPMs) for new buildings;
- guidance in upgrading and maintaining existing development.

PfBP 2018 will be applicable to all development on BFPL in NSW. The general principles underlying this document are that:

- BPMs are required to reduce the impact of a bush fire;
- protection measures are governed by the degree of threat posed to a development and the vulnerability of occupants;
- reducing the interface of a development to the hazard reduces the bush fire risk to the development;
- good practice in planning, building and management reduces the risk to developments and their occupants and increases their resilience.

This report will also detail the relevant compliance issues associated with NSW Rural Fire Services, **Planning for Bushfire Protection**, 2018 and AS 3959 - 2018 *Construction of Buildings in Bushfire Prone Areas* when legislated in NSW.

#### **(i) Objectives for Commercial/Industrial Developments**

Under the building classification system within the National Construction Code (NCC), Class 5 to 8 buildings include offices, shops, factories, warehouses, public car parks and other commercial and industrial facilities. Class 10 includes non-habitable buildings and structures such as garages, carports, swimming pools and fences.

The NCC does not provide for any bush fire specific performance requirements for these particular classes of building. As such AS 3959 and the NASH Standard are not considered as a set of 'deemed to satisfy' provisions, however compliance with AS 3959 and NASH should be considered when meeting the aims and objectives of PFBP 2018.

Whilst bush fire is not captured in the NCC for Class 5-8 buildings, the following objectives will be applied in relation to access, water and services, and emergency and evacuation planning:

- to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupant egress for evacuation;
- to provide adequate services of water for the protection of buildings during and after the passage of bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building;
- to provide suitable emergency and evacuation (and relocation) arrangements for occupants of the development; and
- consideration of storage of hazardous materials away from the hazard wherever possible.

The general fire safety construction provisions of the NCC are taken as acceptable solutions however construction requirements for bush fire protection will need to be considered on a case-by-case basis

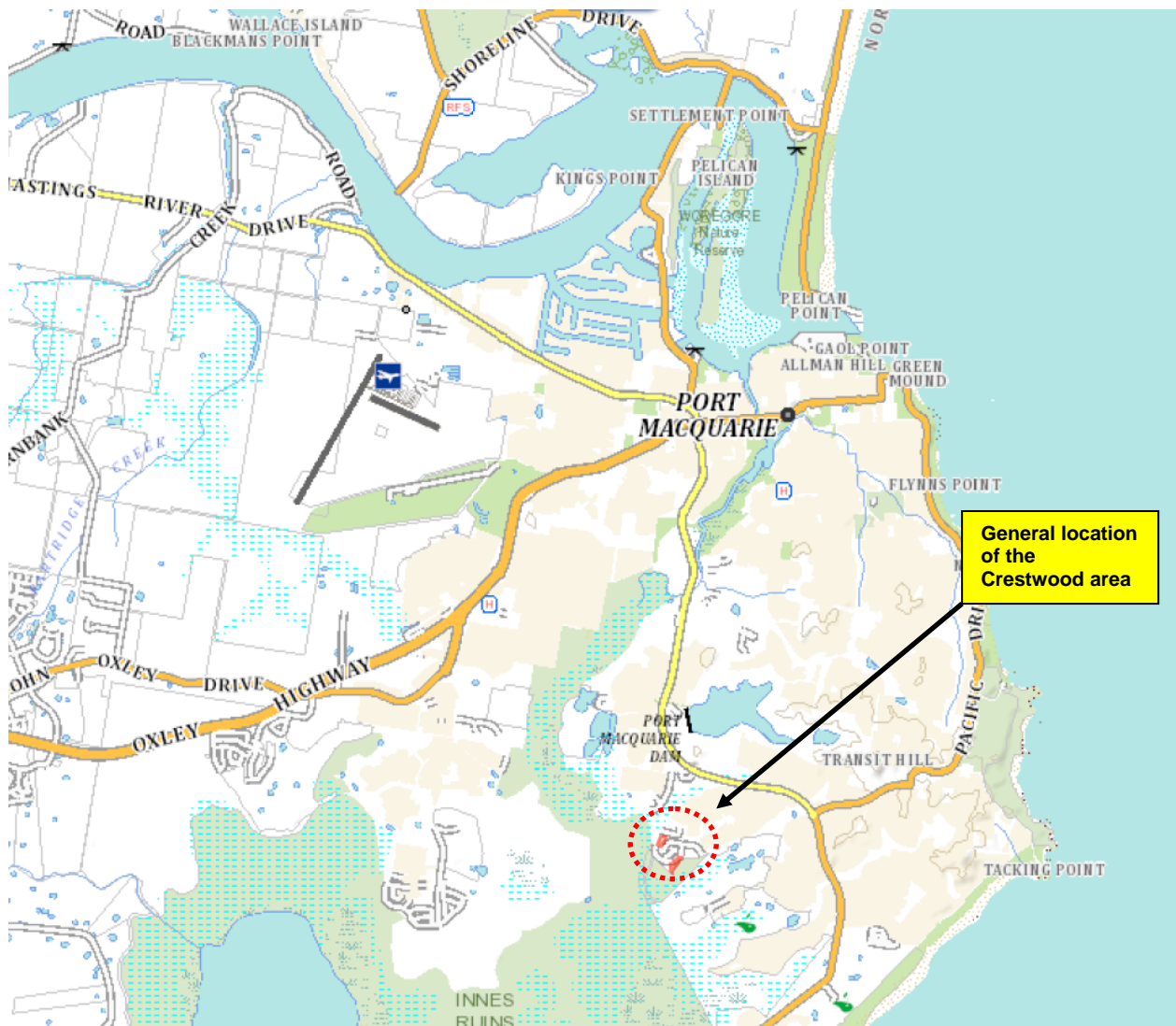
### 1.3 Location and Site Description

The subject site is known as Part of Lot 500 DP 1237901 Crestwood Drive, Port Macquarie and is situated within the Port Macquarie-Hastings local government area. With a population of approximately 48,000 Port Macquarie serves as the regional centre for the Port Macquarie-Hastings local government area;

The subject site is located approximately 5km southwest of the Port Macquarie CBD, within a geographic area known as Crestwood which is an urban growth area on the southwestern fringes of the developed areas of Port Macquarie. Being located in an urban growth area land use in the locality is a mixture of residential and larger vegetated bushland lots.

It is noted that at present Part of Lot 500 DP 1237901 Crestwood Drive, Port Macquarie comprises two (2) separate areas of land. It is noted that the subject site is the southernmost portion of land; refer **Figure 1** below.

**Figure 1 - Site Location**



Forming part of the Crestwood urban growth area, (which is located to the southwest of the urbanized area of Port Macquarie), the land within this area has recently and will continue to experience significant urban expansion with residential development expanding into residentially zoned but undeveloped land.

The character of the locality is that of an urban fringe area with residential development expanding into undeveloped parcels of land. The subject site forms part of the final stages of the Crestwood Heights Estate with dwellings having been constructed on residential lots within earlier stages of the estate to the north/northeast with the final stage of the estate being released to the west/northwest of the subject site. It is however noted that the Lake Innes Nature Reserve adjoins the Crestwood Heights Estate area to the south.

The land which is the subject of this report is irregular in shape and occupies the eastern portion of southern Part of Lot 500 DP 1237901 Crestwood Drive, Port Macquarie, refer to **Figure 2** below.

**Figure 2 – Subject Site**



It is noted that the subject site is vacant of improvements although it is noted that the land has been the subject of filling. Residential lots within the Crestwood Residential Estate extend to the north of the subject site whilst the Lake Innes Nature Reserve adjoins the subject site to the east. An active use public reserve adjoins the subject site to the south and west before a transition to the Lake Innes Nature Reserve.

The subject site is irregular in shape whilst the area of the Part Lot which is the subject of this report is approximately 5390m<sup>2</sup>.

The subject site is located on the southern foot slopes of an east to west ridgeline, the crest of which is roughly defined by the Yaluma Drive road reserve which is located at distance to the north. Consequently, the topography of the subject site and land to the south, (within the Wetland areas of the Lake Innes Nature Reserve), is relatively flat although gentle north to south slopes are present. It is noted the topography of that portion of the subject site which is the subject of this report has been modified via filling which has been undertaken. This filling has created short steep fill batters around the perimeter of the subject site.

Slope conditions on adjoining and adjacent land are similar to that of the subject site however slope conditions become steeper with distance to the north which reflects the presence of the ridgeline side slope conditions which dominate the topography to the north of the subject site.

The subject site contains grassland vegetation which has been established following the filling of the subject site. Forested Wetland and remnant areas of Wet Sclerophyll Forest are located on adjacent land to the south, east and west, (within the Lake Innes Nature Reserve) although managed grassland and landscape vegetation is present to the south and west of the subject site within the public reserve area before a transition into Forested Wetland within the Lake Innes Nature Reserve. Developed residential lots with managed vegetation are present to the north of the subject site.

Access to the subject site is available via Crestwood Drive which adjoins the subject site to the north.

The closest Fire Service is located approximately 4 km to the northwest of the subject site, (Port Macquarie Fire Brigade), with the closest Fire Control Centre being at Wauchope which is 21 kilometres west or 20 minutes by car from Port Macquarie.

## 1.4 Site History

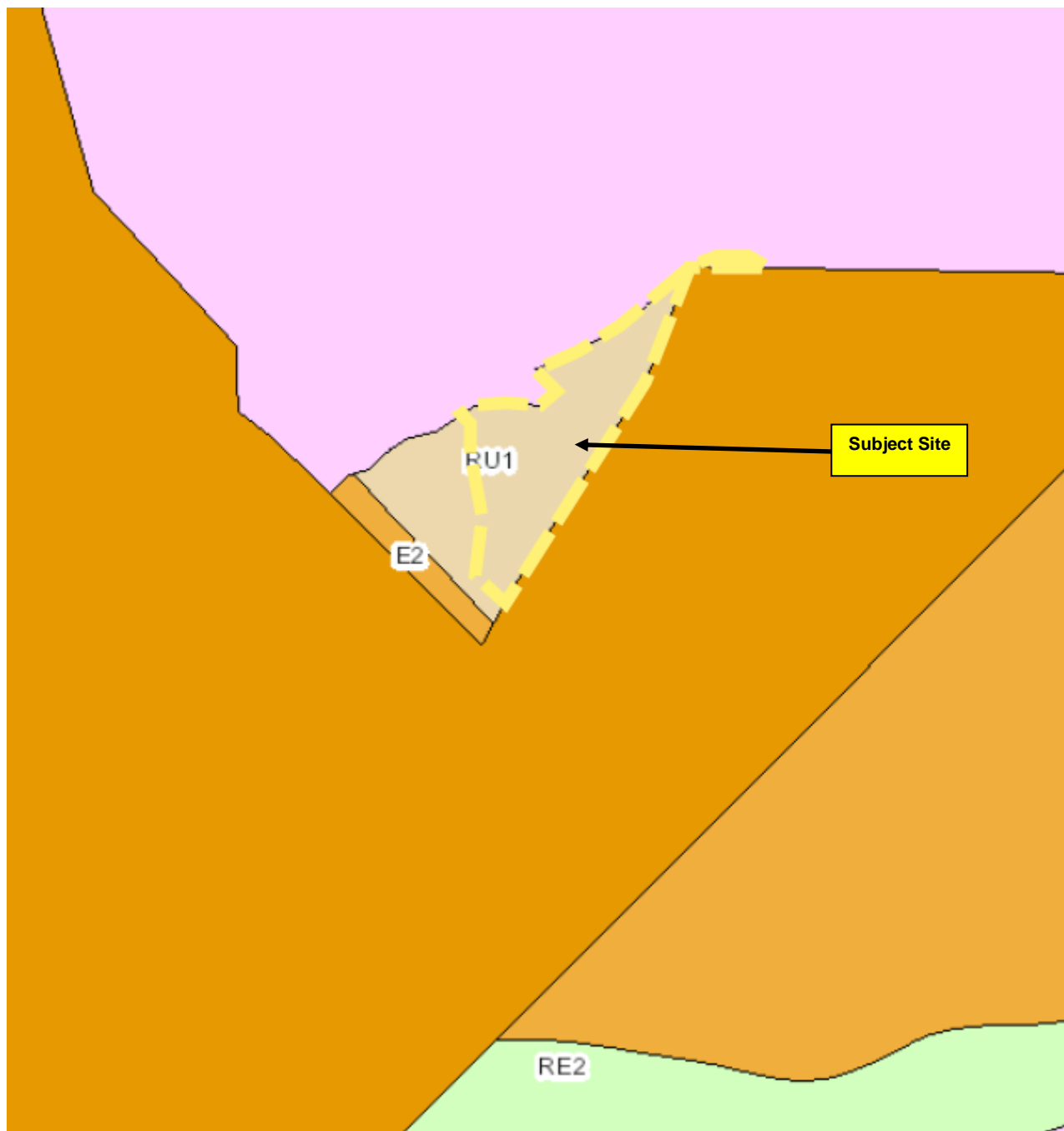
The subject site is positioned on the southwestern fringe of the urbanized area of Port Macquarie in an area which is known locally as Crestwood. Being on the southwestern fringe of Port Macquarie the area has, over the past 15 – 20 years, experienced significant urban growth.

The character of the locality is that of an urban fringe area with residential development expanding from the north and east into the undeveloped but residentially zoned parcels of land that exist to the west of the already developed areas of the Crestwood residential estate.

The subject site forms part of the westerly extension of the Crestwood residential estate. The Development Consent, (DA830/2002), which the subject site forms part of provides for the staged expansion of the residential estate. It is however noted that the development of the area of land encompassed by DA830/2002 has been completed, refer to **Appendix 1**.

The subject site is irregular in shape and is zoned Rural (RU1) in accordance with Port Macquarie Hastings Local Environmental Plan 2011. The relationship of the subject site with surrounding land use is depicted in **Figure 3** below;

**Figure 3 – Landuse Zoning**



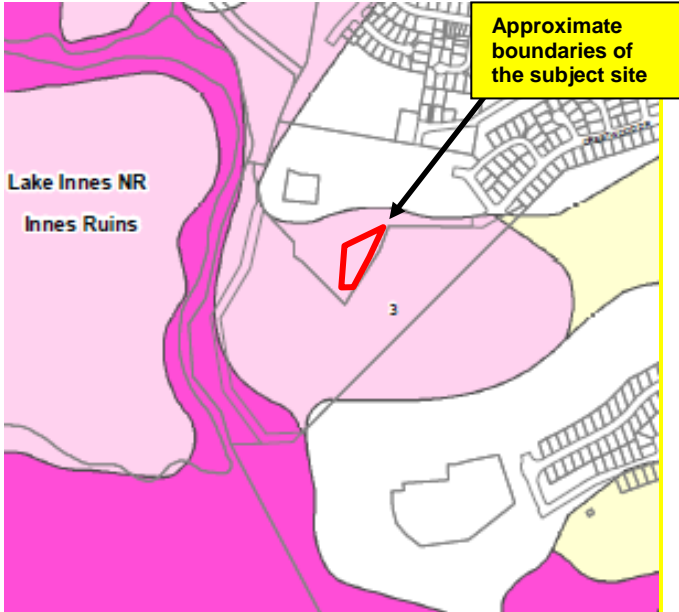
As can be seen in **Figure 3** above, land with a residential (General Residential R1) land use zoning is present to the north whilst land immediately to the south and west has a Rural (RU1) zoning. Land to the east and at distance to the south and west is zoned E1 which reflects the presence of the Lake Innes Nature Reserve in these aspects.

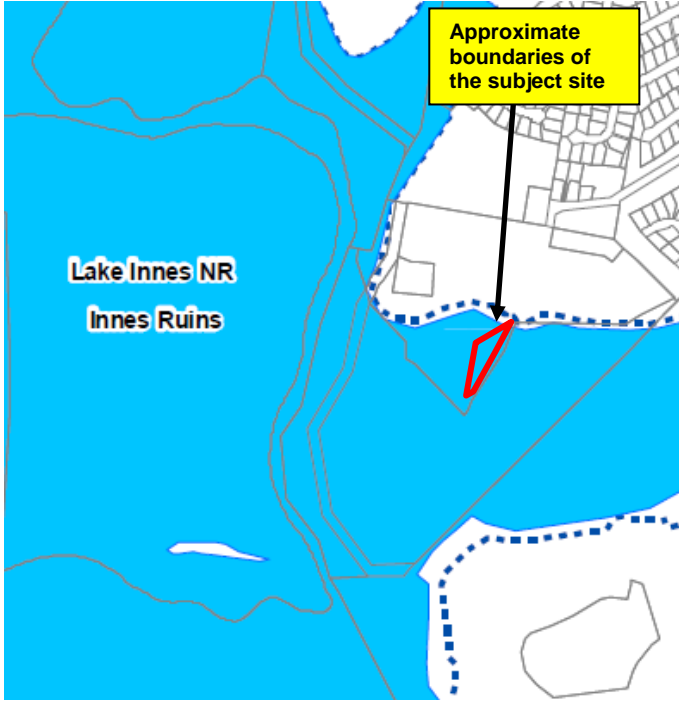
Fire has not recently occurred on the subject site or on adjoining and adjacent land.

The environmental and heritage features of the area of the subject site which forms the basis of this report are summarized as follows;

**Table 1 – Environmental and Heritage Features**

ENVIRONMENTAL/HERITAGE FEATURE	COMMENT
Riparian Corridors	The subject site does not contain any identified riparian

	corridors.
SEPP (Coastal Management) 2018	The subject site is identified as being subject to the SEPP as it is affected by the proximity to Coastal Wetland provisions of the SEPP.
SEPP 44 – Koala Habitat	Given the level of disturbance of the subject site and the absence of any trees over the subject site it is considered that the provisions of SEPP 44 are not applicable in relation to the proposed rezoning.
Areas of geological interest	<p>The subject site is identified as potentially containing Class 3 Acid Sulphate Soils in accordance with Port Macquarie - Hastings Local Environmental Plan, 2011.</p>  <p>Given that the subject site has been filled and the nature of future development, the presence of Acid Sulphate Soils is not expected to be of any significance to the proposed rezoning or future residential development.</p> <p>Based upon previous land use it is expected that no land contamination issues will be relevant to the subject site.</p>
Environmental Protection Zones	<p>The subject site does not contain any environmental protection land use zones, refer to <b>Figure 3</b> above.</p> <p>Environmental protection zones are however presence on adjoining and adjacent land to the south, east and west.</p> <p>In this regard, it is noted that the purpose of the proposed rezoning is to change the zoning of portion of the subject site from the Rural (RU1) land use zoning to a commercial/business (B1) land use zone. The rezoning of part of the subject site would allow for the residential development of the land.</p>
Land slip	Given the gentle topography of the subject site and surrounding areas land slip is not considered to be an issue for the subject site.

Flood prone land	<p>The subject site is identified as being flood prone land and as such is affected by the probable maximum flood level.</p> <p>As such the flood planning provisions of Port Macquarie-Hastings Councils LEP, 2011 are applicable to the subject site.</p>  <p>It is however noted that the area of the subject site which would potentially support residential occupation and use has been filled and as such the future commercial/business development on the subject site would be in areas not affected by the probable maximum flood level.</p>
National Park Estate or other Reserves	The subject land does not form part of the National Park Estate or other Reserves.
Threatened species, populations, endangered ecological communities and critical habitat	Given the level of historic disturbance of the subject site no threatened flora or fauna species are expected to be present on the subject site.
Ecologically Endangered Communities (EEC's)	Given the level of historic disturbance of the subject site it is unlikely to contain or support EEC's.
OEH Key Habitats and Corridors	The subject site is unlikely to form part of OEH key habitats and corridors.
Aboriginal Heritage	Items of aboriginal heritage are unlikely to be present given the active vegetation modification and management which has occurred on the subject site and the level of site disturbance which is likely to have occurred over the years.

## 1.5 Development Proposal

It is proposed to rezone portion of the subject site in order to support commercial/business development. The proposed rezoning reflects the opportunities which exist to provide for a range of commercial/business services in conjunction with the existing residential development within the area.

In this regard, the proposed rezoning would support a Business (B1 or B2) land use zoning over and which is currently zoned Rural (RU1).

A development concept for the subject site is provided in **Appendix 2**. It is noted that the development concept provided in Appendix 2 is considered to be indicative only with the ultimate development of the subject site requiring compliance with the relevant requirements of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 or 2018. The purpose of the development concept is to provide context to the identification of the relevant bushfire threat management requirements which are applicable to the subject site.

In this regard the rezoning of the land is required to demonstrate that there is sufficient land within the subject site in which to accommodate the minimum required bushfire threat management requirements which would be applicable to the future commercial/business development and occupation of the subject site.

Access to subject site will be via the existing Crestwood Drive road reserve which adjoins the subject site to the north.

This report will focus upon identifying the bushfire threat management requirements which will be applicable to any future commercial/business development, (using the development concept in **Appendix 2** for context), so as to allow for an assessment of the subject site's suitability for rezoning.

## 1.6 Fauna and Flora Issues

A fauna and flora evaluation has not been undertaken in conjunction with this bushfire planning assessment and as such issues pertaining to fauna and flora are outside the scope of this report.

## 2.0 BUSHFIRE HAZARD ASSESSMENT

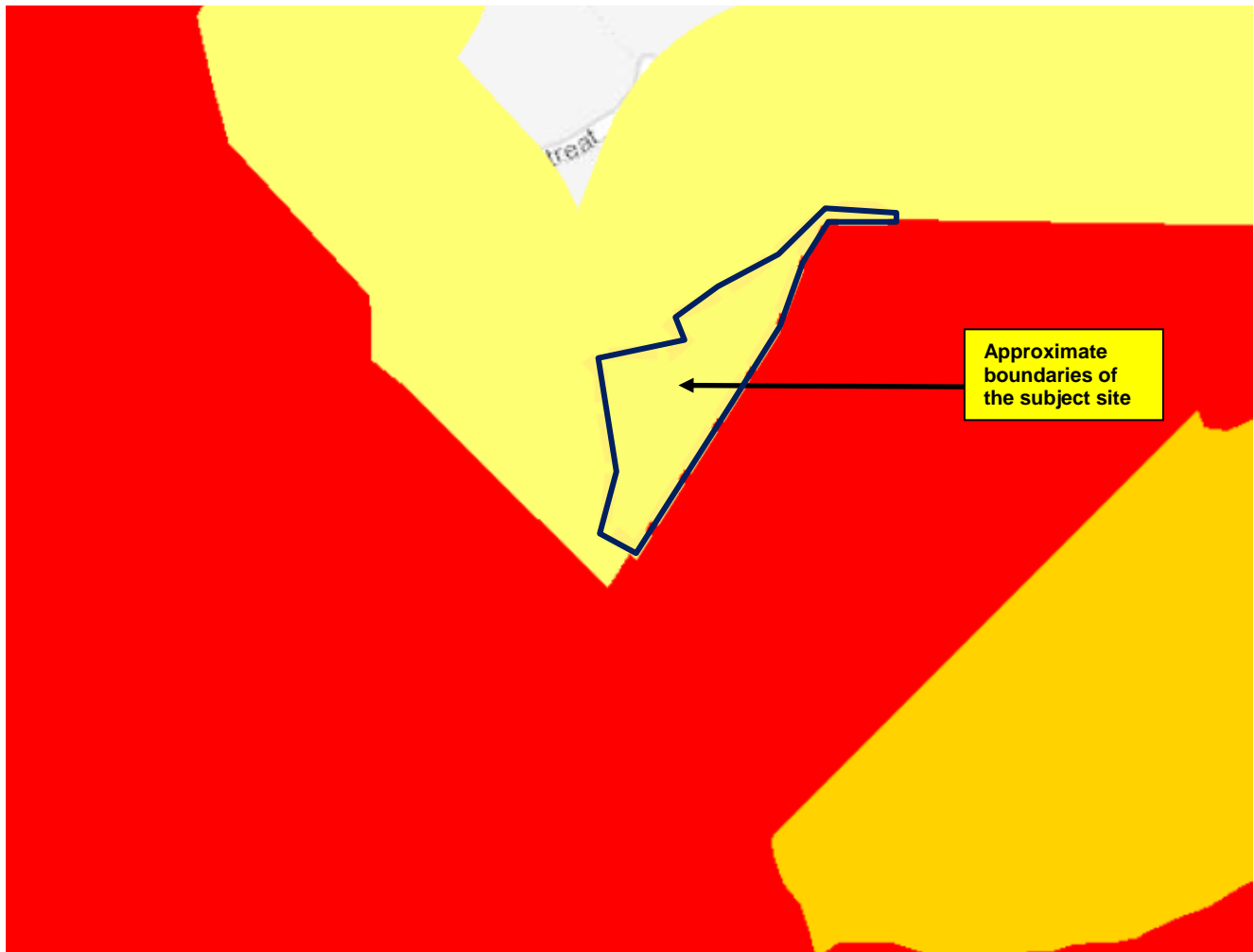
### 2.1 Procedure

Several factors need to be considered in determining the bushfire hazard for the proposed rezoning being slope, vegetation type, distance from vegetation and access/egress. Each of these factors has been reviewed in determining a bushfire hazard rating for the subject site and proposed rezoning.

### 2.2 Hazard Vegetation

Bushfire Prone Land Risk Mapping provides that areas of Category 1 bushfire hazard vegetation are located on adjacent land to the south, east and west with the subject site being affected by the 100m buffer zone to the Category 1 vegetation; refer to **Figure 4**.

**Figure 4 – Extract from Bushfire Risk Mapping**



### 2.3 Slope Assessment

Slope is a major factor to consider when assessing the bushfire risk of any development which is subject to compliance with the requirements of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006. Therefore, the slope of the subject site and surrounding area, (to a distance of 100m), was measured using a Suunto PM-5/360 PC Clinometer.

The subject site is located on the southern foot slopes of an east to west ridgeline, the crest of which is roughly defined by the Yaluma Drive road reserve which is located at distance to the north. Consequently, the topography of the subject site and land to the south, (within the Wetland areas of the Lake Innes Nature Reserve), is relatively flat although gentle north to south slopes are present. It is noted the topography of that portion of the subject site which is the subject of this report has been modified via filling which has been undertaken. This filling has created short steep fill batters around the perimeter of the subject site.

Slope conditions on adjoining and adjacent land are similar to that of the subject site however slope conditions become steeper with distance to the north which reflects the presence of the ridgeline side slope conditions which dominate the topography to the north of the subject site.

The topographic features of the subject site and adjoining and adjacent land can be seen in **Figure 5** below;

[illegible]

**Table 2 - Slope Assessment Results**

DIRECTION OF HAZARD	SLOPE degrees)	UPSLOPE/DOWN SLOPE
Northwest	0°	Flat
South	0° - 1°	Down slope
East	0° - 1°	Down slope
West	0° - 1°	Down slope

The above slopes were considered when assessing the required defensible spaces and indicative Bushfire Attack Levels, (BAL's), for any future development/s.

The vegetation on and surrounding the subject site was assessed over a distance of 140m from the proposed development.

The vegetation formations were classified using the system adopted as per Keith (2004) and in accordance with Appendix 3 of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 and Table 2.3 of AS 3959 - 2009.

The following information is provided in relation to the floristic characteristics of the subject site and adjoining and adjacent land. In adopting a conservative approach to bushfire hazard assessment worst case vegetation characteristics have been identified.

#### **2.4.1 Vegetation within Subject Site**

The subject site currently contains grasslands which were established following the filling of the subject site.

On the basis of the development of all areas of the subject site no areas of hazard vegetation were assessed as being relevant to the subject site itself.



Grasslands on subject site – looking from the northeast towards the southwest

#### **2.4.2 Vegetation on Adjoining and Adjacent Land to Subject Site**

The following vegetation characteristics were identified as being relevant to the proposed rezoning having regard to the vegetation characteristics of adjoining and adjacent land.

Developed residential with managed vegetation are present to the north of the subject site for a distance >140m. Accordingly no areas of bushfire hazard vegetation were assessed as being relevant in this aspect.



**Developed  
residential lots  
to the north of  
the subject site**

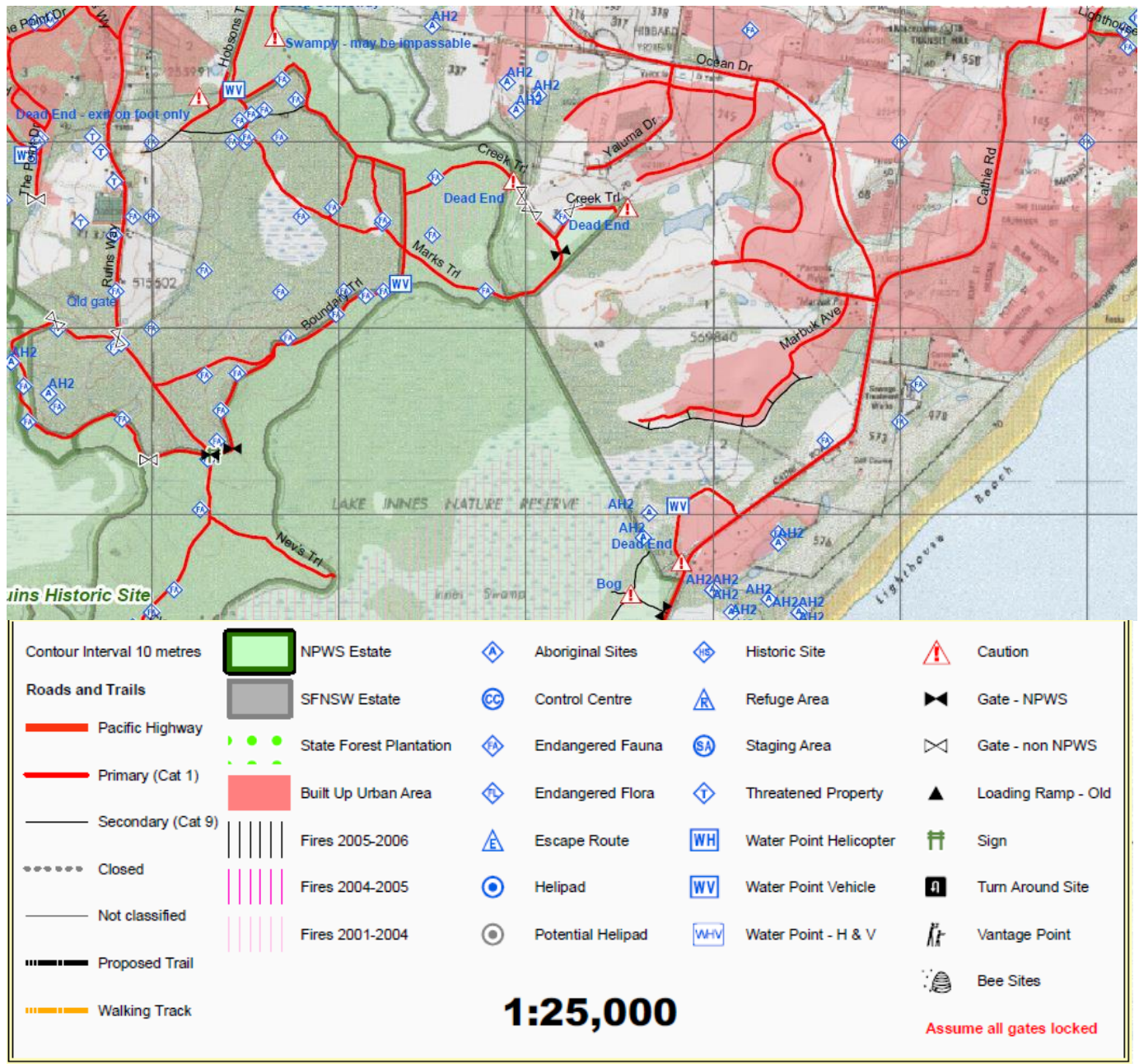
It is however noted that a narrow-vegetated stormwater management detention basin/drain is present adjacent to the northern portion of the western property boundary. This infrastructure is 3 – 5m in width and consists of various macrophytes which would be typical of water quality management infrastructure. It is noted that this area of vegetation is bounded by the subject site to the south and Crestwood Drive to the north. Whilst from a fuel loading perspective a managed vegetation classification could be justified as the vegetation could be consistent with landscaping, in adopting a conservative approach to bushfire hazard management a grassland specification has been adopted for the purposes of this report.



**Vegetation  
within  
stormwater  
management  
infrastructure**

Immediately to the east and south of the subject site is an 8m – 18m wide area of managed grasslands which is present within the Lake Innes Nature Reserve. It is understood that this area is managed by the NSW National Parks and Wildlife Service and is identified as a fire trail in the Lake Innes Nature Reserve and State Conservation Area and Innes Ruins Historic Site Fire Management Strategy (Type 2) 2006, refer to **Figure 6** below.

**Figure 6 – Site Fire Management Strategy (Type 2) 2006**



Beyond the grasslands which are around the perimeter of the Nature Reserve are areas of Forested Wetlands. Whilst the managed nature of the perimeter vegetation could be considered in the determination of the required APZ's for the future development of the subject site in adopting a conservative approach to bushfire hazard assessment a Forested Wetland Classification has been adopted for the eastern aspect.



Minimum 10m wide fire trail area to the south of the subject site before a transition into Forested Wetland vegetation



8m – 18m wide fire trail area to the east of the subject site before a transition into Forested Wetland vegetation

Immediately to the south and west of the subject site is an area which has been development as an active use public reserve, refer to **Appendix 1** and **Appendix 2**. Notwithstanding that the development of immediately adjoining land to the south and west for active public recreation activities has resulted in the establishment and management of vegetation meeting the standards which would be applicable to Asset Protection Zones the bushfire hazard vegetation in the western aspect was assessed as being;

- Grasslands - within the active use public reserve; and
- Forested Wetland - within the Lake Innes Nature Reserve.



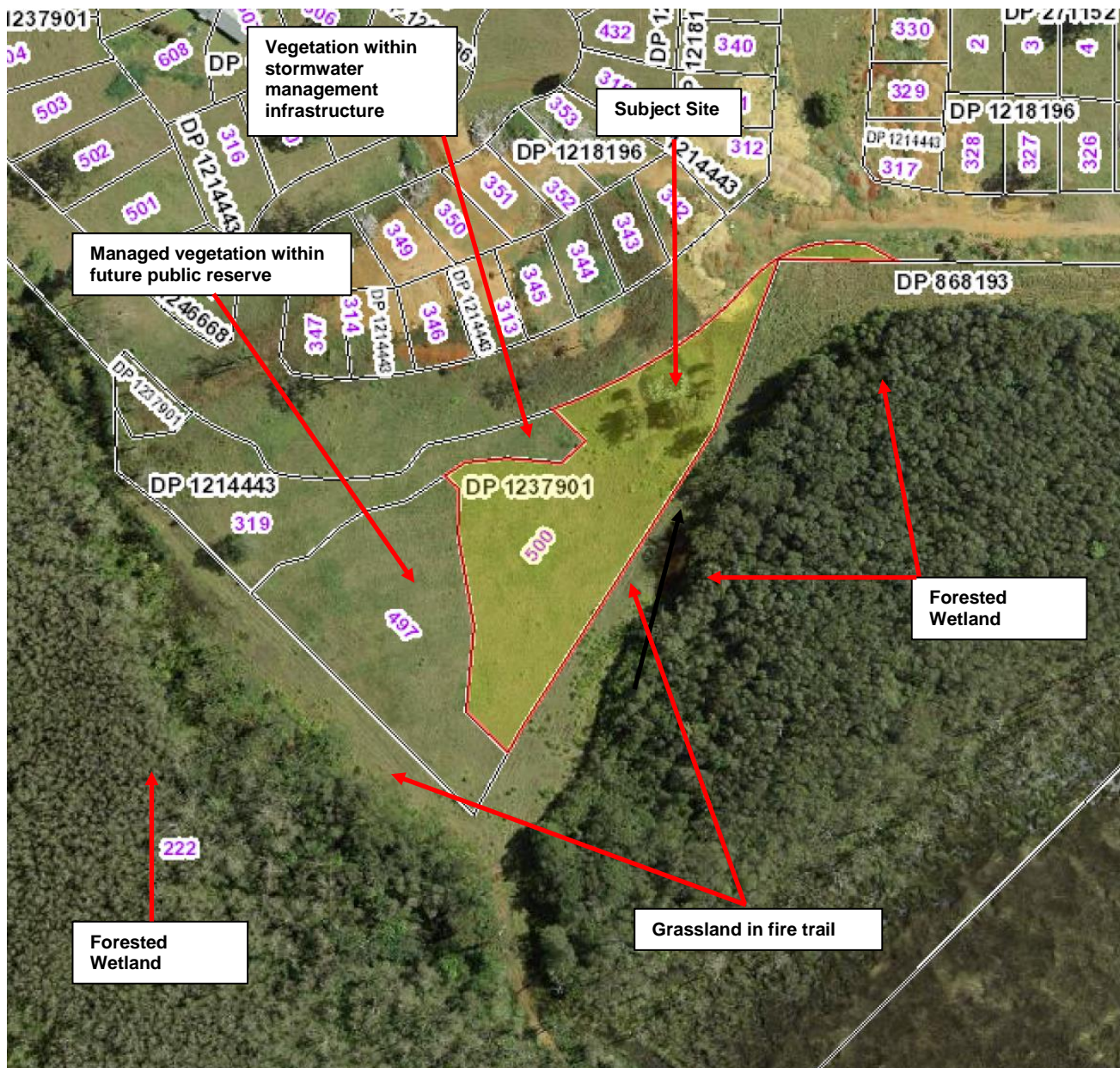
Public reserve  
infrastructure  
to the south of  
the subject site



Public reserve  
infrastructure  
to the west of  
the subject site

An indication of the relationship of the vegetation of bushfire significance to the proposed development is presented in **Figure 7** below.

**Figure 7 - Vegetation Relationships to the Subject Land**



**Note: the above figure does not reflect the further residential subdivision of land to the northwest of the subject site (final stage of the Crestwood Heights Estate development)**

The following table summarizes the various vegetation structures which are of bushfire significance to the proposed rezoning of the subject site.

**Table 3 – Summary of Vegetation Characteristics**

ASPECT	VEGETATION DESCRIPTION	VEGETATION CLASSIFICATION – (Keith, 2004)
Northwest	Macrophytes within stormwater drainage channel	Similar in specification to Grassland
South	Grasslands within active use public reserve	Similar in specification to Grassland
	Forested Wetland within the Lake Innes Nature Reserve beyond the perimeter fire trail	Forested Wetland
East	Forested Wetland within the Lake Innes Nature Reserve beyond the perimeter fire trail	Forested Wetland
West	Grasslands within active use public reserve	Similar in specification to

		Grassland
	Forested Wetland within the Lake Innes Nature Reserve beyond the perimeter fire trail	Forested Wetland

## 2.5 Fire Danger Index

The fire weather for the site is assumed on the worst-case scenario. In accordance with NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006 and Table 2.1 of AS 3959 - 2009, the fire weather for the site is based upon the 1:50 year fire weather scenario and has a Fire Danger Index (FDI) of 80.

## 3.0 BUSHFIRE THREAT REDUCTION MEASURES

### 3.1 NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006 and 2018

The following issues and constraints have been identified through considering the requirements of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 as they apply to the rezoning of portion of the subject site and the future development of the subject site.

#### 3.1.1 Defendable Space/Asset Protection Zone

It is noted that the development concept for the proposed rezoning provides for the use of the land for commercial/business purposes.

To ensure that the aims and objectives of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 and 2018 are achieved for the proposed rezoning, a Defendable Space between the asset and the hazard should be provided.

NSW Rural Fire Service, **Planning for Bushfire Protection**, 2018 provides that a defendable space is;

*An area adjoining an asset that is managed to reduce combustible elements and is free from constructed impediments. It is a safe working environment in which active firefighting can be undertaken to defend the structure, before and after the passage of a bush fire.*

It is noted that the requirements for a defendable space are relevant to any future commercial/business buildings erected on the subject site.

NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 and 2018 do not prescribe acceptable solutions for the provision of a defendable space in relation to commercial/business development with the acceptable solutions provided for by Section 4.1.3 and Section 6 of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 and 2018 respectively applying only to residential and Special Fire Protection Purpose developments. Accordingly, the provision of a defendable space to any future commercial/business development on the subject site must satisfy the general objectives of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 or 2018.

In this regard the following objectives derived from both are NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 and 2018 are considered to be relevant to the provision of a defendable space to any future commercial/business development on the subject site;

- *afford occupants of any building adequate protection from exposure to a bush fire;*
- *provide for a defendable space to be located around buildings;*
- *provide appropriate separation between a hazard and buildings which, in combination with other measures, prevent direct flame contact and material ignition;*
- *provide for ongoing management and maintenance of bush fire protection measures, including fuel loads in the asset protection zone (APZ);*

It is noted that neither NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 or 2018, provides a methodology as to how a performance-based approach to meeting the above objectives is to be determined nor assessed. Accordingly, the identification of a development specific approach to meeting the objectives must have regard to qualifying the bushfire risk posed to future commercial/business buildings utilizing the "Deemed-to-Satisfy" provisions of the National Construction Code as the basis of determining a buildings resistance to the spread of fire. This approach recognizes that both NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 and 2018 provides that the provisions under the Building Code of Australia/NCC are taken as acceptable solutions where the aims and objectives of NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006 and 2018 can be met.

In this regard given the development specific nature of the determination of defensible space requirements for commercial/business development, the determination of the spatial requirements for any future building development on the subject site will be the subject of development specific determination as a combination of bushfire threat management measures could be utilized so as to satisfy the performance objectives of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 or 2018.

Notwithstanding this, reference to the BCA/NCC suggests that a 3m - 10m area between a building and a fire source is acceptable for property protection purposes. Reference to Clause 3.2.2.2 of Australian Standard 2419.1 – 2005, (by virtue of Clause E1.3 of the BCA), provides that a 10m separation distance to a fire source is required for firefighting activities and is generally accepted by the NSW Fire Brigade as being sufficient to allow for firefighting in relation to commercial buildings. Lessor distances are permitted however additional measures are required so as to protect fire fighters from the effects of fire. For example, the use of radiant heat screens/barriers can be used in order to provide additional protection to fire fighters involved in asset protection activities. This maybe specifically relevant to the western aspect of the subject site where the hazard vegetation consists of low fuel loads and as such the impacts of bushfire in this aspect could be reduced which would support a reduced defensible space in this aspect. **Even adopting a worst-case defensible space of 10m for each aspect continues to provide for significant opportunities to accommodate commercial/business development on the subject site.**

It is therefore considered that there are opportunities to position future commercial/business buildings on the subject site so as to comply with the relevant requirements of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 or 2018 and accordingly the proposed rezoning of the subject site to allow for future development is appropriate as it will be necessary to demonstrate compliance with the defensible space requirements in relation to any specific future development proposal.

**Based upon the size and shape of the subject site it is considered that the intent of the requirement for the provision of Asset Protection Zones and Defendable Spaces as required by NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006 and 2018 can be satisfied for the future development of the subject site albeit that the location, nature and form of construction of future development must reflect the performance objectives of NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006.**

### **3.1.2 Defendable Space/Asset Protection Zone Management**

Areas identified as forming part of the minimum Defendable Space requirements for any future commercial/business developments should be created and managed so as to comply with the standards which are applicable to Asset Protection Zones as follows;

#### **(i) Inner Protection Area (IPA)**

*An IPA should provide a tree canopy cover of less than 15% and should be located greater than 2 metres from any part of the roofline of a building.*

*Garden beds of flammable shrubs are not to be located under trees and should be no closer than 10m from an exposed window or door.*

*Trees should have lower limbs removed up to a height of 2 metres above the ground.*

### **3.1.3 Operational Access and Egress**



Access to the subject site will be via the existing Crestwood Drive road reserve which adjoins the subject site to the north.


Crestwood Drive is a tar sealed all weather two-way public through road. In this regard travel is available to and from the subject site in both northerly and easterly directions along Crestwood Drive. Areas, which would be protected from the impact of bushfire, are present to the north, east and west of the subject site. Accordingly, access and egress is considered to be adequate given the developed nature of the area.

The existing public road infrastructure in the immediate area therefore provides for a number of access and egress options to and from areas that would be protected from any bushfire threat. Having regard to the relatively short travel distances involved to areas that would be protected from the effects of fire and the variety in access and egress options to and from the subject site it is considered that adequate access and egress is available.


The development concept for the subject site provides for the existing public road systems to service the proposed commercial/business development/s on the subject site. It is however noted that the development concept for the commercial/business development on the subject site provides for the provision of new internal road infrastructure. It will therefore be necessary to construct all new internal access roads within the subject site associated with any future commercial/business development so as to comply with the relevant performance objectives/acceptable solution requirements of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 or 2018. In this regard, the following compliance requirements are considered to be relevant to the design and construction of new internal road infrastructure;

**Table 7 - Acceptable Solutions (Access/Internal Roads) PfBP 2006**


<b><i>Intent of measures: to provide safe access to/from the public road system for fire fighters providing property protection during a bushfire and for occupants faced with evacuation.</i></b>		
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Compliance Comment</b>
<b>The intent may be achieved where:</b>		
to provide safe access to/from the public road system for firefighters providing property protection during a bush fire and for occupant egress for evacuation;	At least one alternative property access road is provided for individual dwellings (or groups of dwellings) that are located more than 200 metres from a public through road	N/A
The capacity of road surfaces and bridges is sufficient to carry fully loaded fire fighting vehicles.  All weather access is provided.	Bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes.	 To be complied with in relation to the design of future development  No bridges are likely to be required.
	Roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a flood or storm surge).	 To be complied with in relation to the design of future development

<p>Internal road widths and design enable safe access for emergency services and allow crews to work with equipment about the vehicle</p>	<p>Internal roads are two-wheel drive, sealed, all weather roads.</p> <p>Internal perimeter roads are provided with at least two traffic lane widths (carriageway 8 meters minimum kerb to kerb) and shoulders on each side, allowing traffic to pass in opposite directions;</p> <p>Roads are through roads. Dead end roads are not more than 100m in length from a through road, incorporate a minimum 12 meters outer radius turning circle, and are clearly signposted as a dead end;</p> <p>Traffic management devices are constructed to facilitate access by emergency service vehicles;</p> <p>A minimum vertical clearance of four meters to any overhanging obstructions, including tree branches, is provided;</p> <p>Curves have a minimum inner radius of six meters and are minimal in number to allow for rapid access and egress;</p> <p>The minimum distance between inner and outer curves is six meters;</p> <p>Maximum grades do not exceed 15 degrees and average grades are not more than 10 degrees;</p> <p>Cross fall of the pavement is not more than 10 degrees;</p> <p>Roads do not traverse through a wetland or any other land potentially subject to periodic inundation (other than flood or storm surge);</p> <p>Roads are clearly sign posted and bridges clearly indicate load ratings;</p> <p>The internal road surfaces and bridges have a capacity to carry fully loaded fire fighting vehicles (15 tonnes).</p>	<p> The design and construction of access roads is to provide for compliance with the relevant design and construction provisions.</p>
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**Table 8 - Acceptable Solutions (Access/Internal Roads) PfBP 2018**

<b>Intent of measures: to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area.</b>		
<b>Performance Criteria</b>	<b>Acceptable Solutions</b>	<b>Compliance Comment</b>
<b>The intent may be achieved where:</b>		
Firefighting vehicles are provided with safe, all-	SFPP access roads are two-wheel drive, all-weather roads, and	 To be complied

weather access to structures and hazard vegetation	access is provided to all structures and hazard vegetation	with in relation to the design of future development .
	traffic management devices are constructed to not prohibit access by emergency services vehicles	
	access roads must provide suitable turning areas in accordance with Appendix 3	
The capacity of access roads is adequate for firefighting vehicles	the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges and causeways are to clearly indicate load rating	✓ No bridges are required.
		✓ Roads are to be all weather in design and construction.
There is appropriate access to water supply	hydrants are located outside of parking reserves and road carriageways to ensure accessibility to reticulated water for fire suppression, and	✓ The design and construction of roads is to provide for compliance with the relevant design and construction provisions.  The design of the internal road system is to provide for a through road configuration.
	hydrants are provided in accordance with AS 2419.1:2005	
	there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available	
Perimeter access roads are designed to allow safe access and egress for medium rigid firefighting vehicles while occupants are evacuating as well as providing a safe operational environment for emergency service personnel during firefighting and emergency management on the interface	there are two-way sealed roads, and	✓ To be complied with in relation to the design of future development .
	8m carriageway width kerb to kerb, and	
	parking is provided outside of the carriageway width, and	
	hydrants are to be located clear of parking areas, and	
	there are through roads, and these are linked to the internal road system at an interval of no greater than 500m, and	
	curves of roads have a minimum inner radius of 6m, and	

	the maximum grade road is 15° and average grade is 10°, and	
	the road crossfall does not exceed 3°, and	
	a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided	
Non-perimeter access roads are designed to allow safe access and egress for medium rigid firefighting vehicles while occupants are evacuating	<div>minimum 5.5m width kerb to kerb, and</div> <div>parking is provided outside of the carriageway width, and</div> <div>hydrants are located clear of parking areas, and</div> <div>there are through roads, and these are linked to the internal road system at an interval of no greater than 500m, and</div> <div>curves of roads have a minimum inner radius of 6m, and</div> <div>the maximum grade road is 15° and average grade is 10°, and</div> <div>the road crossfall does not exceed 3°, and</div> <div>a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.</div>	 To be complied with in relation to the design of future development

Given the existing nature of the public road infrastructure and the nature of the proposed future development of the subject site it is considered that access and egress arrangements for the future development of the subject site can be consistent with the relevant performance and acceptable solution requirements of NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006 or 2018.

#### **3.1.4 Services - Water, Gas and Electricity**

As set out in Section 4.1.3 of NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006, developments in bushfire prone areas must maintain a water supply reserve dedicated to firefighting purposes.

Given that the proposed rezoning provides for commercial/business development, any future buildings will have access to the reticulated water supply, the extension of which will be required by Port Macquarie-Hastings Council to service development within an urban context. It is however noted that the determination of a guaranteed water supply is to be made by the water supply authority where mains water supply is available.

Electricity supply is available and will be accessible to the development of the land.

Reticulated gas services are not available in the locality and are therefore not available to the subject site.

It is noted that neither NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006 or 2018 prescribe any specific acceptable solutions with respect to commercial/business

development. In this regard it will be necessary to demonstrate that any future commercial/business development on the subject site is provided with adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

Given that the subject site is serviced by a reticulated water, has access to the electricity supply which services the area and the flexibility which exists in relation to the location of any gas supplies it will be possible for any future commercial/business development to be provided with services which comply with the relevant requirements of either NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 or 2018.

### **3.1.5 Landscaping**

Landscaping is a major cause of fire spreading to buildings, and therefore any landscaping proposed in conjunction with the future development of the subject site will need consideration when planning, to produce gardens that do not contribute to the spread of a bushfire.

When planning any future landscaping surrounding any future development on the subject site, consideration should be given to the following:

- The choice of vegetation – consideration should be given to the flammability of the plant and the relation of their location to their flammability and ongoing maintenance to remove flammable fuels.
- Trees as windbreaks/firebreaks – Trees in the landscaping can be used as windbreaks and also firebreaks by trapping embers and flying debris.
- Vegetation management – Maintain a garden that does not contribute to the spread of bushfire.
- Maintenance of property – Maintenance of the property is an important factor in the prevention of losses from bushfire.

Appendix 5 of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 and Appendix 4 of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2018 contain standards that are applicable to the provision and maintenance of landscaping.

Any landscaping proposed to be undertaken in conjunction with any future development of the areas which are the subject of this report is to comply with the principles contained in Appendix 5 of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 or upon its adoption Appendix 4 of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2018.

Compliance with Appendix 5 of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 or Appendix 4 of NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2018 will satisfy the intent of the bush fire protection measures that are applicable to the provision of landscaping.

### **3.1.6 Construction Requirements**

It is noted that neither of NSW Rural Fire Service, ***Planning for Bushfire Protection***, 2006 or 2018 contain any specific construction requirements in relation to commercial/business buildings. In this regard both guidelines provide that the general fire safety construction provisions (of the NCC) are taken as acceptable solutions. As such AS 3959 and the NASH Standard are not considered as a set of 'deemed to satisfy' provisions, however compliance with AS 3959 and NASH should be considered when meeting the aims and objectives of PfBP 2006 or 2018.

Given the flexibility which will exist in relation to future building design and construction it will be possible for future development to comply with the relevant construction requirements of either NSW Rural Fire Services, ***Planning for Bushfire Protection***, 2006 or 2018.

## 3.2 Construction of Buildings in Bushfire Prone Areas

### 3.2.1 General

In NSW, the bushfire protection provisions of the National Construction Code, (NCC), are applied to Class 1, 2, 3, Class 4 parts of buildings, some Class 10 buildings and Class 9 buildings that are Special Fire Protection Purposes (SFPP's).

It is noted that both NSW Rural Fire Services, *Planning for Bushfire Protection*, 2006 and 2018 provide that AS3959 is the relevant construction standard for Class 1, 2, 3, Class 4 parts of buildings, some Class 10 buildings and Class 9 with AS 3959 – 2009 being the current construction standard in NSW. The form adoption of NSW Rural Fire Services, *Planning for Bushfire Protection*, 2018 will however result in AS 3959 – 2018 becoming the relevant construction standard in NSW.

It is however noted that both NSW Rural Fire Services, *Planning for Bushfire Protection*, 2006 and 2018 seek to modify certain provisions of the relevant reference AS 3959 standards.

It is also noted that the NCC does not provide for any bush fire specific construction requirements in relation to other non-residential or SFPP development and as such AS 3959 does not apply as a set of 'deemed to satisfy' provisions for commercial/business buildings. The general fire safety construction provisions of the NCC are taken as acceptable solutions. This would be specifically relevant where commercial/business developments are undertaken on the subject site as a consequence of the proposed rezoning.

## 4.0 SUMMARY OF FINDINGS

The following recommendations are provided in response to the proposed rezoning of land known as Part of Lot 500 DP 1237901 Crestwood Drive, Port Macquarie having regard to the development concept provided as **Appendix 2**.

- (i) Adopt Landscaping principals in accordance with Section 3.1.4 of this report.
- (ii) Defendable Spaces to any future commercial/business buildings on the subject site are to be the subject of individual assessment in accordance with the general objectives of NSW Rural Fire Services, *Planning for Bushfire Protection*, 2006
- (iii) Water and other services are to be provided to the subject site in accordance with the requirements detailed in Section 3.1.3 of this report.
- (iv) The determination of construction standards for any future development of the subject site should be the subject of an individual bushfire hazard assessment conducted in conjunction with the development of the subject site.
- (v) Where internal access road infrastructure is required, its design and construction must comply with the relevant requirements of NSW Rural Fire Services, *Planning for Bushfire Protection*, 2006 or 2018.

## 5.0 CONCLUSION

It is considered that the proposed rezoning of land known as Part of Lot 500 DP 1237901 Crestwood Drive, Port Macquarie is at risk of bushfire attack; however, it is in our opinion that with the implementation of the bushfire threat reduction measures and consideration of the recommendations in this report, the bushfire risk is manageable for the proposed rezoning albeit that the design and construction of any future commercial/business development will need to demonstrate compliance with the relevant requirements of NSW Rural Fire Service, *Planning for Bushfire Protection*, 2006..

With the implementation of the recommendations it is considered that it will be possible for the future commercial/business development of the subject site to meet the applicable acceptable

solutions as provided for in NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006 or 2018.

This report is however contingent upon the following assumptions and limitations.

### Assumptions

- (i) For a satisfactory level of bushfire safety to be achieved regular inspection and testing of proposed measures, building elements and methods of construction, specifically nominated in this report, is essential and is assumed in the conclusion of this assessment.
- (ii) There are no re-vegetation plans in respect to hazard vegetation and therefore the assumed fuel loading will not alter.
- (iii) It is assumed that the building works will comply with the DTS provisions of the BCA.
- (iv) Any future commercial/business developments are constructed and maintained in accordance with the risk reduction strategy in this report.
- (v) The vegetation characteristics of the subject site and surrounding land remains unchanged from that observed at the time of inspection.
- (vi) The information contained in this report is based upon the information provided for review, refer to **Appendix 2**.

No responsibility is accepted for the accuracy of the information contained within the above plans.

### Limitations

- (i) The data, methodologies, calculations and conclusions documented within this report specifically relate to the building and must not be used for any other purpose.
- (ii) A reassessment will be required to verify consistency with this assessment if there is building alterations and/or additions, change in use, or changes to the risk reduction strategy contained in this report

## 6.0 REFERENCES

NSW Rural Fire Services, **Planning for Bushfire Protection**, 2006

AS 3959-2009, **Construction of Buildings in Bushfire Prone Areas**

Keith David 2004, Ocean **Shores to Desert Dunes, The Native Vegetation of New South Wales and the ACT**, Department of Environment and Conservation

NSW State Government, **Rural Fires Act**, 1997

Port Macquarie-Hastings Councils, **Bushfire Prone Land Mapping**

NSW Rural Fire Service, **Guideline for Bushfire Prone Land Mapping**, 2002

Australian Building Codes Board, **Building Code of Australia**, 2011

NSW Rural Fire Service – **Guideline for Bushfire Prone Land Mapping 2002**

## Disclaimer

The findings referred to in this report are those which, in the opinion of the author, are required to meet the requirements of NSW Rural Fire Service, **Planning for Bushfire Protection**, 2006. It should be

noted that the Local Authority having jurisdiction for the area in which the property is located may, within their statutory powers, require different, additional or alternative works/requirements to be carried out other than those referred to in this report.

This report has been prepared partially on information provided by the client. Information provided by the client in respect of details of construction.

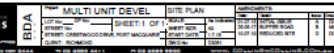
The author denies any legal liability for action taken as a consequence of the following:

- The Local Authority requiring alternative or additional requirements to those proposed or recommended in this report.
- Incorrect information, or misinformation, provided by the client with regard the proposed development which is in good faith included in the strategies proposed in this report and later found to be false.

### **Existing Approved Residential Subdivision (Crestwood Estate)**



## Indicative Development Concept



SITE PLAN SCALE 1:200



## Initial Business Supply & Demand Review to accompany Site Specific Planning Proposal - Crestwood Drive, Port Macquarie

### A. Aim of Planning Proposal

The aim of the Planning Proposal is to facilitate a rezoning of 5,390m<sup>2</sup> of land in the Crestwood Estate known as Part Lot 500 DP 1237901, Crestwood Drive, Port Macquarie, to B1 Neighbourhood Centre.

In order to determine whether the Site Specific Planning Proposal should proceed to Gateway, an initial review has been undertaken with respect to the demand for additional business land and the potential impact upon the retail hierarchy of Port Macquarie, having regard to the regional and local strategies.

### B. Existing Retail Hierarchy & Planning

The Regional Plan indicates that new commercial precincts, outside of centres, should be appropriately sized and of scale relative to the area they will be servicing, and demonstrate how they will deliver positive social and economic benefits for the wider community and maintain the strength of the regional economy.

Council's Urban Growth Management Strategy states:

*"Port Macquarie is expected to accommodate about 63% of all new population growth in the local government area to 2036. In total, Port Macquarie's population is expected to grow from 48,870 in 2016 to 66,000 in 2036. Generally, this means between 700 and 800 new residents each year."*

Figures 1 and 2 below are extracts from Council's Urban Growth Management Strategy and indicates the existing retail and business hierarchy, noting that Port Macquarie CBD is the main centre.

The subject site is located in the vicinity of the star indicated on the figure.

It is important to note the following with respect to the site distance from these identified existing centres:

- **Main Centre** - Horton St in Port Macquarie's CBD is 8km / 14 minutes' drive by car from the site.
- **Town Centre** – Wauchope is 23km / 25 minutes' drive by car from the site, Thrumster (under construction) is 13km / 15 minutes' drive by car from the site, and Laurieton is 29km / 29 minutes' drive by car from the site.
- **Neighbourhood Centre** – Lighthouse is 3.1km / 5 minutes' drive by car from the site, and Lake Innes is 8.3km / 14 minutes' drive by car from the site.
- **Local Convenience Centre** – Waniora is 5km / 9 minutes' drive by car from the site, Shelly Beach is 4.4km / 7 minutes' drive by car from the site, and Watonga is 4km / 7 minutes' drive by car from the site.

Looking at Figure 1, it is clear that there is un-serviced area with respect to neighbourhood centres in this area west of Ocean Drive, in the southern portion of Port Macquarie.

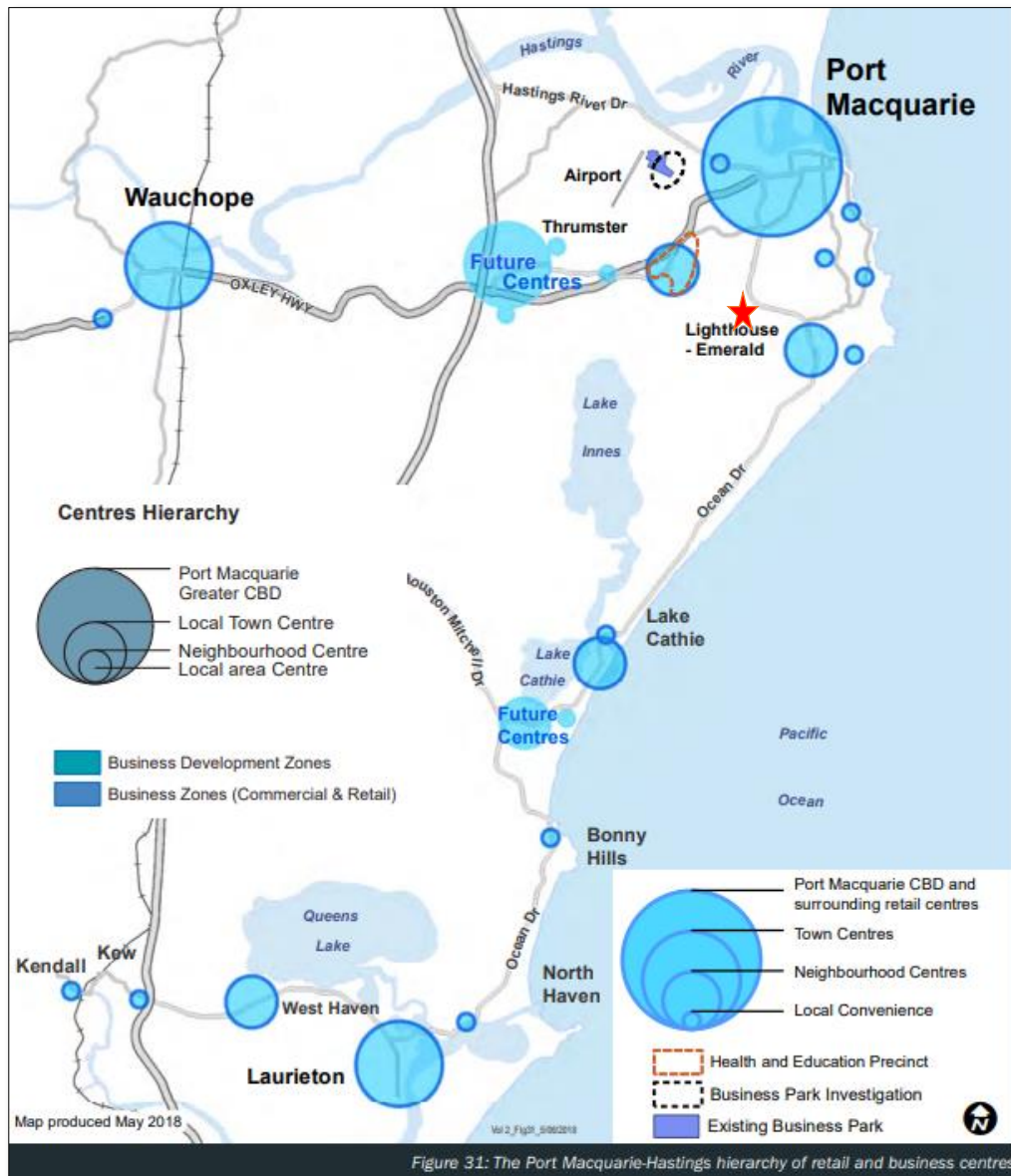


Figure 1 – Extract UGMS Retail Hierarchy and Business Centres Figure 31 (source: [www.pmhc.nsw.gov.au](http://www.pmhc.nsw.gov.au))

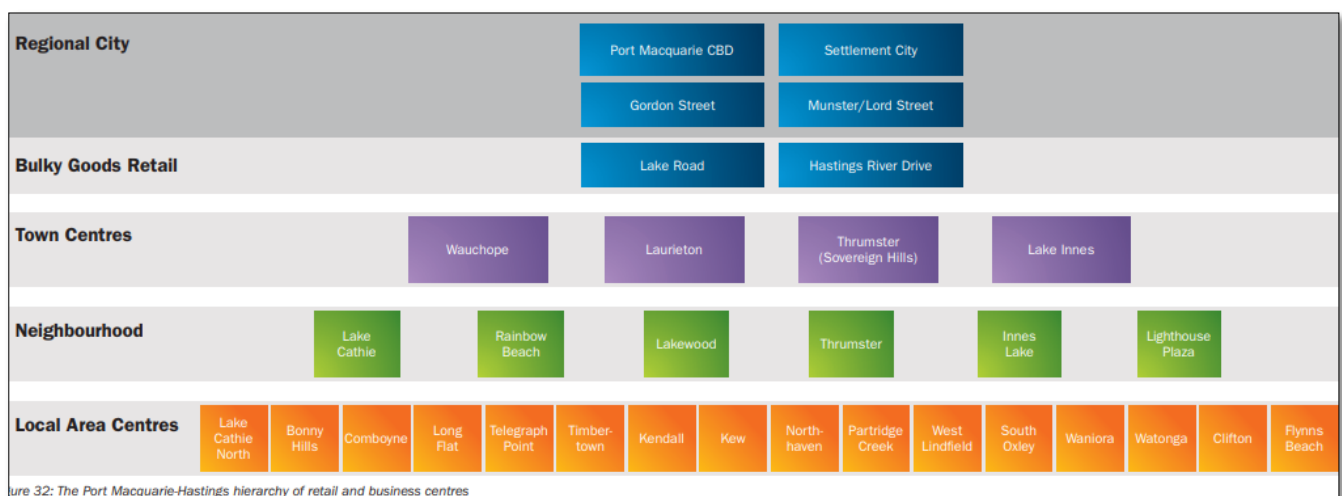


Figure 2 - Extract UGMS Retail Hierarchy and Business Centres Figure 32 (source: [www.pmhc.nsw.gov.au](http://www.pmhc.nsw.gov.au))

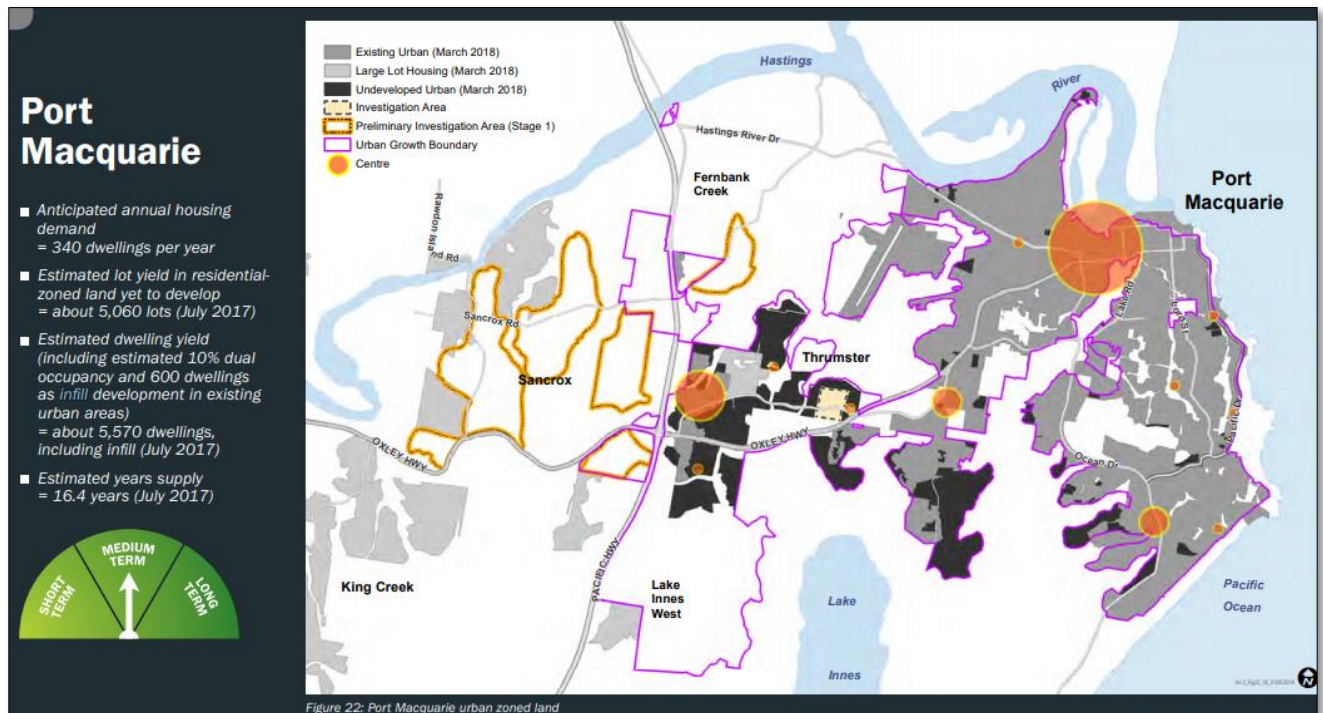


Figure 3 - Extract UGMS Housing Demand Figure 22 (source: [www.pmhc.nsw.gov.au](http://www.pmhc.nsw.gov.au))

Figure 3 above identified undeveloped urban areas, with a large amount in this general area being the western side of Ocean Drive.

The LEP map 13G which includes the subject site and surrounding area identifies only commercial zonings for Lighthouse, Watonga, Waniora and Shelly Beach, consistent with above. Therefore, any other businesses operating in this southern area of Port Macquarie in accordance with the limited uses under the residential zoning or existing use rights. The current zoning maps does not allow for any increase in business zoned land, despite the extraordinary level of growth in population in this area over recent years and projected into the future.

It is key to note that the proposed B1 zoning varies from the main centre of Port Macquarie and due to the size, location and likely nature, is not in competition.

Council has been progressing planning of large scale business precincts including the Airport and Health & Education, however these are not directly comparable with this proposal and those proposals have the ability to significantly alter the business hierarchy and economic characteristics and trends for the wider area. This subject rezoning is proposed to fill a gap identified in the existing hierarchy at local / neighbourhood level, to service residential estates which have emerged and grown in recent years.

Having regard to the existing local and neighbourhood centres in the immediate vicinity being Lighthouse, Watonga, Waniora and Shelly Beach, the age of these centres is noted, which reiterates that no new centres in this southern 'Lighthouse – Emerald' portion of Port Macquarie has been developed for some time and is overdue.

### C. Likely Users & Need

Figure 1 and the distances indicates above indicates a lack of business, commercial or retail centres for the residents of Crestwood and other nearby estates such as Greenmeadows and Dahlsford.

These residents have no other neighbour centre within walking distance, or close by. The closest facilities are Lighthouse Coles and specialty shops, which is a larger centre and approx. 3.1km / 5 minutes' drive by car from the site.

There is a strong demand from the existing and future residents, as well as the users of the playground and Googik Track, which are both rapidly growing in popularity, for this low scale neighbourhood centre.

There is opportunity for commercial use of this site to appeal to a range of the sector including primarily:

- Residents of Crestwood and nearby estates
- Users of the adjoining playground
- Users of the Googik Track
- Small businesses who do not need space in the CBD, in a variety of forms including retail, office space, medical centre, café etc.

The site is accessed via existing infrastructure via walking, private vehicle, bus services and bicycles, or a combination. The connectivity of the site cannot be ignored when considering the likely users of this land.

Given the forecasted growth for the region and the increase in population continuing to arrive in Crestwood, there is a clear need to provide additional local commercial or retail services for their day to day needs, as well as providing employment opportunities. The proposed neighbourhood centre is small in scale, appropriate for the residential estate of Crestwood.

There are also clear tourist opportunities, given its location on the Googik Track. Port Macquarie and its key natural features such as the Coastal Walk and beaches, have a long standing relationship with business and commercial opportunities which support visitors, both local and further afar, to utilise these features and also support local businesses such as cafes. This is a good opportunity for a café to be located on the site which would contribute to the tourist economy.

The residents in Crestwood have identified with the developer, that there is a need for a self-storage facility or area for storage of their belongings which do not fit onto a standard residential lot in Crestwood, such as a camper trailer. This demand is real and could be accommodated on the site.

#### D. Impacts on Business Hierarchy

Given the small scale of the proposed B1 centre with a total land area of 5,390m<sup>2</sup>, a direct conflict with user of the Port Macquarie CBD would not be expected, nor with the established local and neighbourhood centres given their distance from the site and also the size of those facilities being larger and in the instance of Lighthouse, housing a large chain supermarket being Coles.

The opportunities for the development of this site would be expected to respond to the needs of the users identified above and as such it would be expected that small scale retail uses, café, office space, medical centre and the like would be accommodated in a future development. The day to day needs of the residents could be met such as milk and bread, a cup of coffee or as discussed above, storage areas.

#### E. Population Growth & Economic Development

Population growth is identified in Figure 21 of the UGMS which indicates that this area of Crestwood and surrounds is expected to accommodate 385 additional dwellings by 2036, yet no additional local or neighbourhood commercial centres were identified in this area. Hence, there is a demand for the local business zoned land in the Crestwood area.

Having regard to the identified challenges in the UGMS to accommodate the desired population growth, which includes targeted infill development, the subject site is prime for infill development given its lack of constraints with respect to ecology, heritage or servicing and is located within an existing residential area.

## Appendix C – Gateway Determination

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

The Section 3.34 Gateway Determination addresses processing requirements:

- (a) whether the matter should proceed (with or without variation),
- (b) whether the matter should be resubmitted for any reason (including for further studies or other information, or for the revision of the planning proposal),
- (c) the minimum period of public exhibition of the planning proposal (or a determination that no such public exhibition is required because of the minor nature of the proposal),

Note. Under Schedule 1, the mandatory period of public exhibition is 28 days if a determination is not made under paragraph (c).

- (d) any consultation required with State or Commonwealth public authorities that will or may be adversely affected by the proposed instrument,
- (e) whether a public hearing is to be held into the matter by the Independent Planning Commission or other specified person or body,
- (f) the times within which the various stages of the procedure for the making of the proposed instrument are to be completed,
- (g) if the planning proposal authority is a council – whether the council is authorised to make the proposed instrument and any conditions the council is required to comply with before the instrument is made.

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



## Appendix D – List of proposed amendments

### A. Changes to text

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There are no proposed changes to *Port Macquarie-Hastings LEP 2011* text.

### B. Changes to Map Sheets

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The following map sheets are proposed to be revoked:

Map sheets	Map sheet identifier	Appendix B - details reference
Land Zoning Map LZN_013G	6380_COM_LZN_013G_020_20181114	
Lot Size Map LSZ 013G	6380_COM_LSZ_013G_020_20181129	
Floor Space Ratio FSR 013G	6380_COM_FSR_013G_020_20181107	
Height of Building HOB 013G	6380_COM_HOB_013G_020_20190924	

**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	Appendix B - details reference
Land Zoning Map LZN_0	6380_COM_LZN_0#_020_201*	
Lot Size Map LSZ_0	6380_COM_LSZ_0#_020_201*	

**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.

## Appendix E – Map Cover Sheet and new Map Sheets [CG3]

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The Map Cover Sheet and associated Map Sheets to be adopted are part of the submission of the draft LEP for formal approval by the Minister for Planning or delegate.

They will not be prepared until that stage.

Where printed, the Map Cover Sheet and associated Map Sheets will follow this page.

Where in electronic form, they may be in separate documents.

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