

(FUTURE) PUBLIC EXHIBITION DATES

(Start) to (Finish)

Planning Proposal under section 55 of the EP&A Act

***Port Macquarie-Hastings LEP 2011
(Amendment No 47)***

Road closures

Ccl ref: DD032.2017.00000008.001

DPI ref: PP_2017_PORTM_*

Date: 15/09/2017



**PORT MACQUARIE
HASTINGS
C O U N C I L**

Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Reported to Council (section 55)	16/08/2017
Adopted by Council & referred to Dept of Planning (sec 56 (1))	
Gateway Panel determination (sec 56 (2))	
Revisions required: Yes / No . Completed	
Public Exhibition (where applicable) (sec 57)	
For Council review (sec 58 (1))	
Adopted by Council for final submission to Dept of Planning (sec 58 (2))	

Council reference: DD032.2017.00000008.001

Port Macquarie-Hastings LEP 2011 (Amendment No 47)

**Department of Planning & *
Environment reference:**

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Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on 15 September 2017 by the undersigned Council delegate:

Signed 

Name Peter Cameron

Position Group Manager Strategic Land Use Planning

2. For section 58 finalisation

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

Signed

Name

Position

Exhibition information *(To be completed prior to Exhibition)*

Content

Proposed amendments to Local Environmental Plans are exhibited in a descriptive form within a “Planning Proposal”.

An overview of this **Planning Proposal** is contained in **the Executive Summary**, found on page 5, with background information on pages 10 to 16. The proposed changes cover:

1. Making subdivision required to identify a road closure under Part 4 of the *Roads Act 1993* (which has its own public consultation requirements) exempt development within the Council area.
2. Extending from adjoining properties onto parts of Burrawan Street, Pacific Drive, Windmill Street, Home Street, Hill Street and Arncliffe Street, Port Macquarie, the appropriate provisions on the **Land Zoning Map**, **Floor Space Ratio Map** and **Height of Buildings Map**.

The specifics of how *Port Macquarie-Hastings Local Environmental Plan 2011* would be amended are described in **Part 2**, found on page 17. The Planning Proposal contains statements of the intent for changes to the LEP text, but not the specific wording. Details of the map changes are contained in **Part 4**.

The “Gateway Determination” from the NSW Department of Planning and Environment, relating to this Planning Proposal, is in **Appendix A**.

Exhibition

The exhibition period is from **start** to **finish**, with the Planning Proposal available for inspection by any person at Council’s offices at Port Macquarie, Laurieton and Wauchope, and on haveyoursay.pmhc.nsw.gov.au.

Submissions

Any person may make a written submission to Council up until the end of the exhibition period. The submission should quote Council’s reference - **DD032.2017.00000008.001**, and be emailed to council@pmhc.nsw.gov.au or posted to The General Manager,
Port Macquarie-Hastings Council,
PO Box 84,
PORT MACQUARIE NSW 2444.

Note that any submission may be made public.

Further information

Please contact Stephen Nicholson on phone (02) 6581 8111.

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Executive Summary

This Planning Proposal arose out of two proposed road closures:

1. The proposed closure is for part of the road, which necessitates a subdivision which requires development consent. However, in this case consent could not be given due to the applicable minimum lot size.
2. The proposed closure for part of the road, with potential for residential or tourist development in conjunction with adjoining land. However, there are inconsistencies in zoning, floor space ratio and height of building controls, which extend along roads in the vicinity.

Based on above, this Planning Proposal includes the following draft LEP amendments:

1. To make subdivision required to identify a road closure under Part 4 of the *Roads Act 1993* (which has its own public consultation requirements) exempt development within the Council area. This general amendment will avoid unnecessary delays where similar situations arise in the future.
2. Extending from adjoining properties onto parts of Burrawan Street, Pacific Drive, Windmill Street, Home Street, Hill Street and Arncliffe Street, Port Macquarie, the appropriate provisions on the Land Zoning Map, Floor Space Ratio Map and Height of Buildings Map.

The balance of this Planning Proposal contains information required in Planning Proposals, or information to assist in understanding the Planning Proposal. In particular:

Planning Proposal and Background - provide contextual information.

Part 1 - lists the Objectives or intended Outcomes (as described above).

Part 2 - explains the proposed amending LEP provisions. This will describe the proposed new exempt development provisions in more detail.

Part 3 - contains an analysis of the proposal against standard assessment criteria to determine if the proposal is justified.

Part 4 - contains relevant mapping. This includes before and after mapping for the proposed changes in the vicinity of Pacific Drive.

Part 5 - outlines the proposed community consultation in relation to this proposal.

Part 6 - sets out a timeline for the processing of this proposal.

Appendix A - contains a copy of the 'Gateway determination' from the Department of Planning & Environment in relation to the processing of this proposal.

Appendix B - a detailed assessment of the proposal for consistency with relevant State Environmental Planning Policies. A summary is contained in Part 3.

Appendix C - a detailed assessment of the proposal for consistency with relevant Section 1117 Ministerial Directions (relating to planning proposals). A summary is contained in Part 3.

Appendix D - at finalisation of this proposal, contains the legal 'Map Cover Sheet' detailing the changes to the list of legal LEP maps, and copies of the new map sheets.

Acronyms, Glossary and References

- AHD - Australian Height Datum**, means the reference (or datum) surface approximating mean sea level that was adopted by the National Mapping Council of Australia in May 1971. This provides a consistent basis for defining heights, irrespective of (changes in) ground level.
- APZ - Asset Protection Zone**, in relation to bushfire protection, is a buffer zone between a bush fire hazard and buildings, which is managed progressively to minimise fuel loads and reduce potential radiant heat levels, flame, ember and smoke attack. Refer to *Planning for Bushfire Protection 2006*.
- ASS - Acid sulfate soils**, means naturally occurring sediments and soils containing iron sulfides (principally pyrite) and/or their precursors or oxidation products. The exposure of the sulfides to oxygen by drainage or excavation leads to the generation of sulfuric acid. **Actual acid sulfate soils** have already become acidic, which can leach into other soils or into waterways. Either way, they can damage ecosystems (eg fish kills after rain) or buried pipes or foundations. **Potential acid sulfate soils** are soils which contain iron sulfides or sulfidic material which have not been exposed to air and oxidised.
- ASS Map** - means the **Acid Sulfate Soils Map**, one of the map series of *LEP 2011*. This is relevant to clause 7.1, which has an objective of ensuring that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The Map is relevant to some provisions of the *Codes SEPP*.
- BASIX** - A suite of sustainable planning measures to make all residential dwelling types in NSW energy and water efficient. Key components are [SEPP \(Building Sustainability Index: BASIX\) 2004](#) and certification of compliance with the BASIX targets are different stages of building approval and construction.
- [Coastal Design Guidelines 2003](#) are guidelines issued by the former Coastal Council, and which are referred to in Section 117 Ministerial Direction No 2.2.
- Codes SEPP**, or [State Environmental Planning Policy \(Exempt and Complying Development Codes\) 2008](#), contains State-wide provisions that identify certain types of development that can be carried out as **exempt development**, or with a simplified **complying development** approval process.
- DCP - Development Control Plan**, a policy document of Council given status under the EP&A Act to be a consideration in the determination of development applications. In this area this is [Port Macquarie-Hastings Development Control Plan 2013](#).
- DP&E** - the NSW **Department of Planning & Environment**, who have a significant role in under the EP&A Act, and who advise, and act under delegation for, the Minister of Planning.
- DSP - Developer Servicing Plan**, a document which details the developer charges to be levied on development areas which use a water utility's water supply, sewerage infrastructure and/or stormwater infrastructure. This can be under either the *Local Government Act 1993* or the *Water Management Act 2000*.

DWE Map - the **Dwelling Opportunity Map**, one of the map series of LEP 2011. This is relevant to clause 4.2A, relating to requirements for erection of dwelling houses and dual occupancies in certain rural and environmental protection zones.

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

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

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

EPBC Act - the Commonwealth [Environment Protection and Biodiversity Conservation Act 1999](#), the Australian Government's key piece of environmental legislation.

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

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

FSR Map - the **Floor Space Ratio Map**, one of the map series of LEP 2011. Refer to **Part 4 – Mapping**. This is relevant to clauses 4.4 and 4.5 of the LEP text.

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

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

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

[Guidelines for Preparing Coastal Zone Management Plans](#) is the current manual relating to the management of the coastline for the purposes of section 733 of the *Local Government Act 1993*, as referred to in Section 117 Ministerial Direction No 2.2.

HOB Map - the **Height of Buildings Map**, one of the map series of LEP 2011. Refer to **Part 4 – Mapping**. This is relevant to clause 4.3 of the LEP text.

KHA Map - the **Koala Habitat Map**, one of the map series of LEP 2011. This is relevant to clause 7.5 of the LEP text.

KPoM - a **Koala Plan of Management**, prepared in accordance with the requirements of [SEPP No 44 - Koala Habitat Protection](#). Usually relates to the site of a development application, but can relate to a larger area.

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

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

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

LSZ Map - the **Lot Size Map**, one of the map series of LEP 2011. This is relevant to clauses 4.1 to 4.2C of the LEP text. Refer to **Part 4 – Mapping**.

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

NCRP - [North Coast Regional Plan 2036](#), is the NSW Government's 20 year blueprint for the future of the North Coast. Related to this is the [North Coast Regional Plan 2036 - Implementation Plan 2017-2019](#). Local planning by Councils of the North Coast needs to be consistent with these documents.

[NSW Coastal Policy: A Sustainable Future for the New South Wales Coast 1997](#) is referred to in Section 117 Ministerial Direction No 2.2.

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

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

PMHC means Port Macquarie-Hastings Council.

RMS - the NSW **Roads and Maritime Services**, who have a role in managing potential road and traffic impacts of changes to planning controls.

[Section 117 Ministerial Directions](#) - these are directions issued by the Minister of Planning, and which specify State-wide requirements for planning proposals. If a proposal is inconsistent with a requirement of a Direction, then the Secretary of DP&E (or his delegate) may still permit the planning proposal to proceed if the inconsistency is justified in the particular circumstances. Assessment of this proposal in relation to the Section 117 Ministerial Directions is in **Appendix C**.

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

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

STP - sewage treatment plant, where sewage is treated and the waste water made fit for reuse or discharge.

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

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

TSCA - the [Threatened Species Conservation Act 1995](#), the key piece of legislation relating to protecting species, populations and ecological communities threatened with extinction in NSW. Protection of threatened fish and marine vegetation comes under the *Fisheries Management Act 1994*.

[Towards 2030 Community Strategic Plan](#), PMHC June 2017 - Council's community strategic plan, as required by section 402 of the [Local Government Act 1993](#).

UGMS - Council's [Urban Growth Management Strategy 2011-2031](#), adopted in December 2010, and which sets the framework for major changes to the LEP and other actions to facilitate urban development within the Council area. It is related to Council's *Towards 2030 Community Strategic Plan*. An updated strategy will be released in 2017.

VPA - Voluntary Planning Agreements between Council and landowners under Division 6 of Part 4 of the EP&A Act. Through negotiation, they allow for flexibility in infrastructure provision or for other public purposes, which can be hard to achieve with fixed Council-wide requirements relating to infrastructure provision or funding or other implications of development.

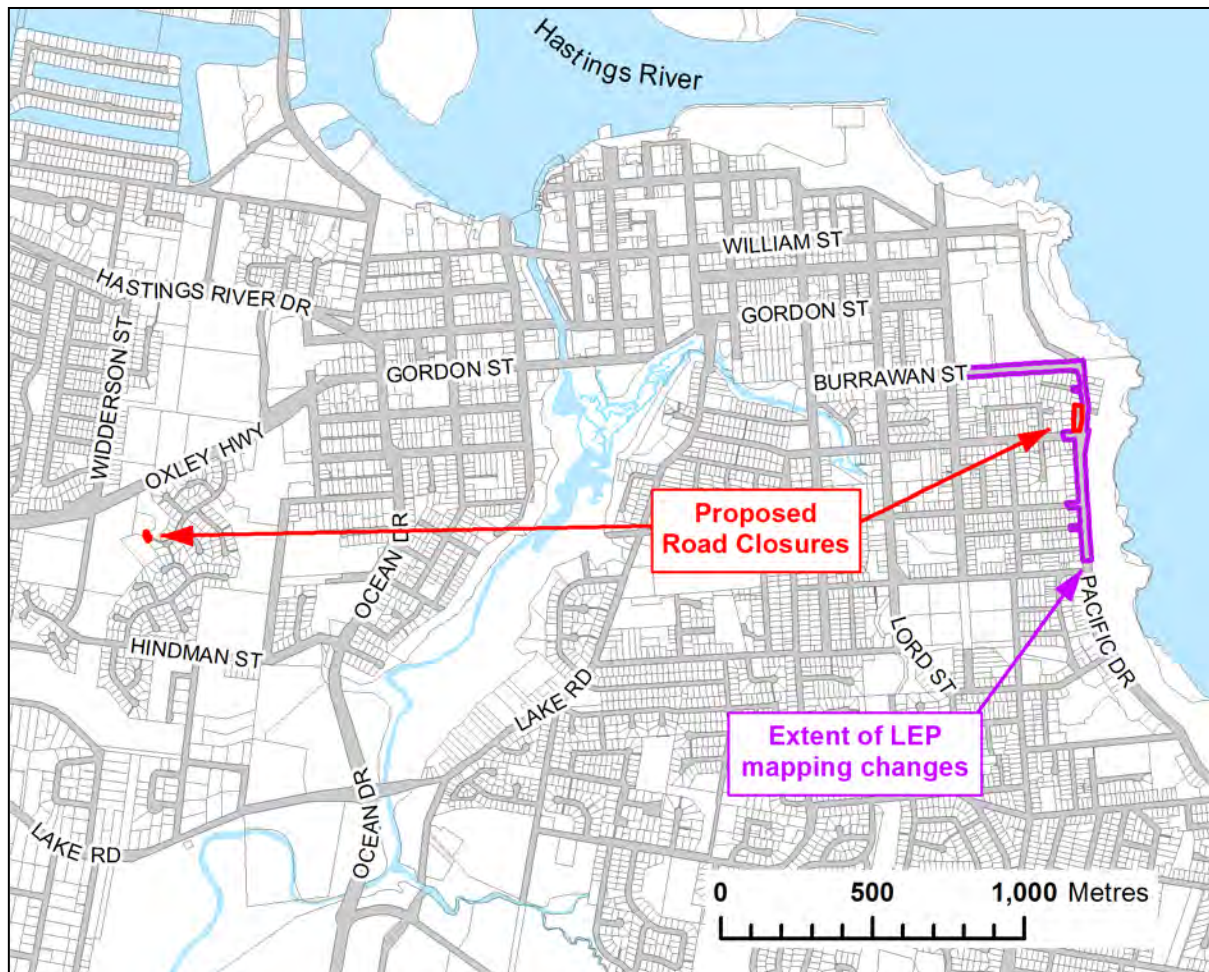
Planning Proposal

This is a Planning Proposal prepared under section 55 of the *Environmental Planning and Assessment Act 1979*, in relation to a proposed amendment to *Port Macquarie-Hastings Local Environmental Plan 2011*. It will be assessed by Port Macquarie-Hastings Council, the NSW Department of Planning and Environment, and (depending on the Gateway determination) used for public participation on the proposed LEP amendment.

Proposal	This proposal relates to two issues: 1. Allowing subdivision associated with road closures under Part 4 of the <i>Roads Act 1993</i> as exempt development 2. Extending from adjoining properties onto parts of Burrawan Street, Pacific Drive, Windmill Street, Home Street, Hill Street and Arncliffe Street, Port Macquarie, the appropriate provisions on the Land Zoning Map, Floor Space Ratio Map and Height of Buildings Map. The circumstances relating to these are described below.
Property Details	For both issues the relevant land is public road. In the first case it could be wherever a road closure is proposed. The second case applies to the roads described, and shown on the maps in Part 4.
Applicant Details	Port Macquarie-Hastings Council
Land owner	In most cases the Roads Authority (under the <i>Roads Act 1993</i>) is Port Macquarie-Hastings Council.

Background

The locations of the two proposed road closures within Port Macquarie are shown below.



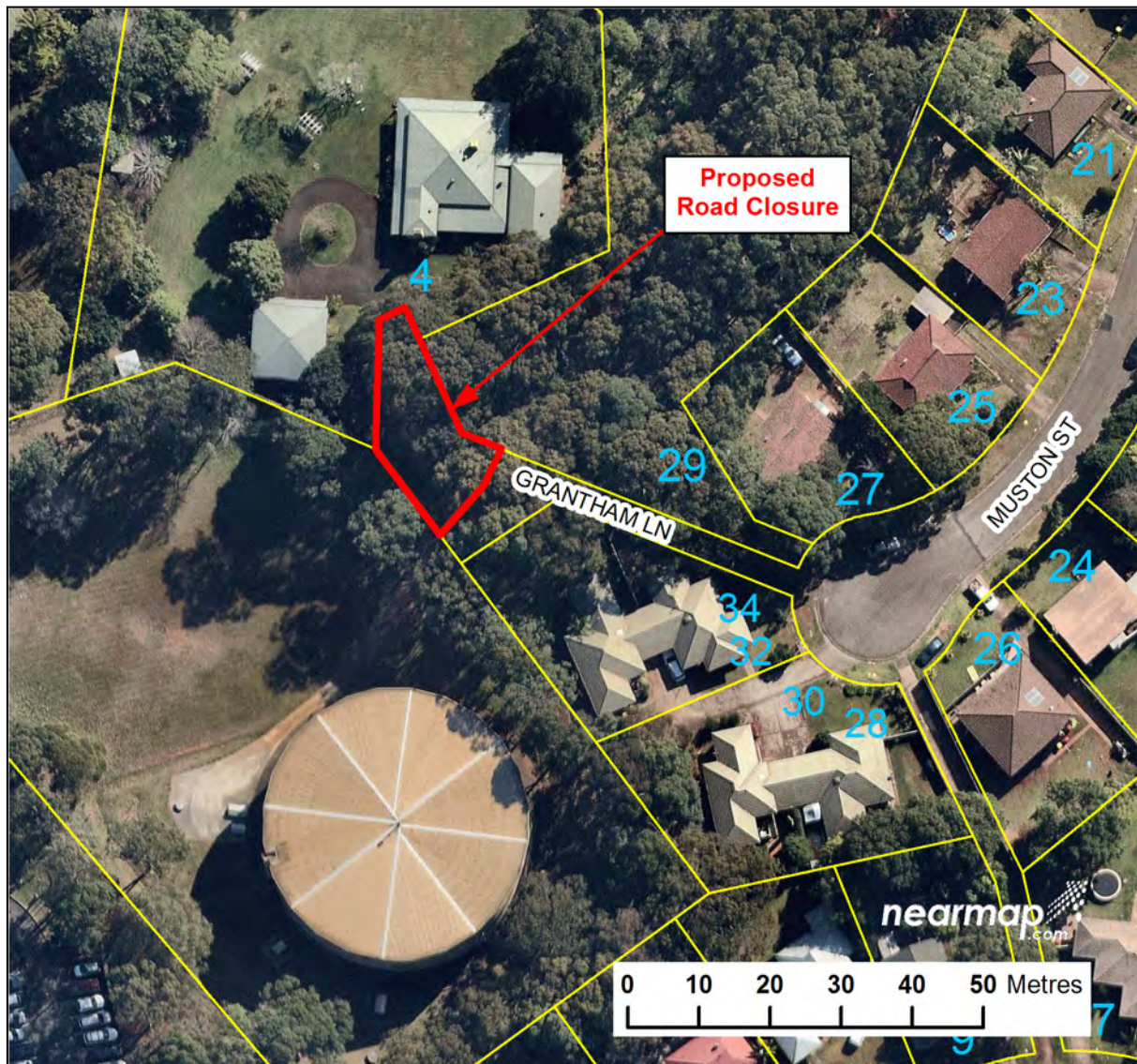
1. Allowing road closures as exempt development

Council has been processing a request for closure of part of Grantham Lane, Port Macquarie. The lane provides access to a private residential property, and to Council land containing a water reservoir. The owner of the private land is seeking the closure of that part of the land that only provides access to his property, as shown on the map below.

As it is proposed to close only part of the lane, the Registrar General requires a 'plan of subdivision' to identify the relevant 282.7 m² part of the lane that is being closed. (This applies where the road was created under Torrens Title or Old System Title - further information on [Deposited plans for road closure](#).) At present such a subdivision requires development consent. The relevant land is zoned E3 Environmental Management, and a minimum lot size requirement of 4000 m² applies, and hence consent cannot be granted.

It was initially proposed to make a one-off LEP amendment to permit this 'subdivision'. However, it is considered preferable to introduce an amendment that will address any

similar situations in the future. In addition, the procedures for road closure under Part 4 of the *Roads Act 1993* include publication in a local newspaper of notice of the proposed closing of a public road. In these circumstances, there is no reason to require a development application, and it is considered appropriate to make road closures exempt development.





View of Grantham Lane from south-east.

2. Mapping changes for roads in vicinity of Windmill Hill, Port Macquarie

Council is processing an application for partial closure of Pacific Drive just north of Home Street - the area involved is shown on the map below. It is anticipated that the closed road will be consolidated and developed in conjunction with the existing land parcels to the west. It is preferable that consistent planning controls apply to the closed road as apply to the existing land parcels unless there are reasons for applying different controls.

When LEP 2011 commenced, on the **Land Zoning Map** a R1 General Residential zone applied to the private land and across to the eastern side of Pacific Drive (south from the northern side of Burrawan Street). Council strategies to facilitate urban consolidation in this area have led to some of the land being rezoned R3 Medium Density Residential, leaving strips of road zoned R1 General Residential.

The land to the east of Pacific Drive is coastal Crown land, and other LEP Map Series have taken different approaches:

- **Lot Size Map** - extends to the eastern side of Pacific Drive
- **Floor Space Ratio Map** - stops at the western side of Pacific Drive
- **Height of Buildings Map** - stops at the western side of Pacific Drive

As a consequence there are inconsistencies in relation to the proposed closed road and the adjoining land on the **Land Zoning Map**, **Floor Space Ratio Map** and **Height of Buildings Map**. These are illustrated in **Part 4**, which also shows how the anomalies extend beyond the area of the proposed road closure.

Accordingly, it is proposed to amend the three map series to establish consistency for planning provisions applying to the roads and to the adjoining land.





View of part of Pacific Drive proposed for road closure.

Council interests

This planning proposal relates to public roads, and Council is the Roads Authority for almost all public roads. It is appropriate to have regard to **LEPs and Council Land, Best Practice Guideline**, January 1997, from the former NSW Department of Urban Affairs and Planning. The requirements are:

- full disclosure of Council's interests
- provision of information as below
- inclusion of the Guideline within the Planning Proposal - refer to **Appendix D**.

1. Statement of Council's Interest

Council is the Roads Authority for almost all public roads within the Council area. Council is responsible for the functioning of the road network. It is not possible to generally identify the date when Council became responsible for any given section of road, other than to refer to the relevant plan of subdivision which dedicated that land as road. (And in some cases other processes may be involved.)

In relation to the two proposed road closures that initiated this Planning Proposal:

a) Grantham Lane

Was created in Deposited Plan 708408 in 1984 in a subdivision for the NSW Department of Housing, and separately dedicated in 1985 in a Gazette Notice published by the Department of Housing.

b) Windmill Hill

It is harder to definitely identify when this became public road. There are indications that the plan of the Town of Port Macquarie (now known as DP758852) came about in the 1890s. It is far enough back that it is not of significance.

2. Purpose of the draft LEP

The purpose of the LEP is described in the **Executive Summary** and in **Part 1**.

How the LEP will affect the planning controls is described in **Part 2**.

What prompted this Planning Proposal is described above in the **Background**.

3. Anticipated development

It is not possible to anticipate what development could arise in the future from the proposed exempt development provisions.

In relation to the two proposed road closures that initiated this Planning Proposal:

a) Grantham Lane

The shape and location of the proposed road closure basically limit the use of the land to access to the residential land beyond.

b) Windmill Hill

The current proposed road closure will, in conjunction with the adjoining land, enable residential or tourism development or redevelopment of the land. As shown in the maps and images, this land is not actively used for road purposes.

The balance of the land for which the LEP mapping is being changed is actively used as road, and is unlikely to see any further road closure or development.

4. Financial Implications

The sale of closed public road under the *Roads Act 1993* is subject to the following:

43 Disposal of land comprising former public road owned by council

- (1) This section applies to land vested in a council and forming part of a former public road.
- (2) Land to which this section applies is operational land for the purposes of the *Local Government Act 1993* unless, before the land becomes vested in the council, the council resolves that it is to be community land, in which case the land is community land.
- (3) If the land is disposed of by sale, the proceeds of sale (less the costs of the sale) are to be paid to the council.
- (4) Money received by a council from the proceeds of sale of the land is not to be used by the council except for acquiring land for public roads or for carrying out road work on public roads.

Any income received by Council is restricted in how it can be spent.

5. Guideline

A copy of the Best Practice Guideline is included in **Appendix D**.

Part 1 - Objectives or Intended Outcomes

This Planning Proposal arose out of two proposed road closures:

1. The proposed closure is for part of the road, which necessitates a subdivision which requires development consent. However, in this case consent could not be given due to the applicable minimum lot size.
2. The proposed closure for part of the road, with potential for residential or tourist development in conjunction with adjoining land. However, there are inconsistencies in zoning, floor space ratio and height of building controls, which extend along roads in the vicinity.

Based on above, this Planning Proposal includes the following draft amendments to *Port Macquarie-Hastings Local Environmental Plan 2011*:

1. To make subdivision required to identify a road closure under Part 4 of the *Roads Act 1993* (which has its own public consultation requirements) exempt development within the Council area. This general amendment will avoid unnecessary delays where similar situations arise in the future.
2. Extending from adjoining properties onto parts of Burrawan Street, Pacific Drive, Windmill Street, Home Street, Hill Street and Arncliffe Street, Port Macquarie, the appropriate provisions on the Land Zoning Map, Floor Space Ratio Map and Height of Buildings Map.

Part 2 - Explanation of Provisions

The first amendment will involve adding to [Schedule 2 Exempt development](#) in the LEP a new listing, with words to the effect:

Subdivision required to identify a road closure carried out in accordance with Part 4 of the *Roads Act 1993*.

Schedule 2 is read in conjunction with [clause 3.1](#) of the LEP text, and is subject to [section 76](#) of the EP&A Act.

The second amendment involves substitution of map sheets incorporating the changes shown in **Part 4**, replacing the current map sheets:

Map sheets	Map sheet identifier
Land Zoning Map LZN_013FA	6380_COM_LZN_013FA_010_20170308
Floor Space Ratio Map FSR_013FA	6380_COM_FSR_013FA_010_20160205
Height of Buildings Map HOB_013FA	6380_COM_HOB_013FA_010_20151222

Precise details of the changes to the list of map sheets will be added to **Appendix E** near the conclusion of the LEP amendment process.

Part 3 – Justification

A - Need for the planning proposal.

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

No.

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

This is the best means, as it addresses any similar circumstances that may arise.

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* does not deal with detailed matters like this. However the simplification of the planning processes is not inconsistent.

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

The *Urban Growth Management Strategy 2011-2031* does not deal with detailed matters like this. However the simplification of the planning processes is not inconsistent.

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

Detailed assessment of consistency is contained in **Appendix B**. The only relevant SEPP is the Codes SEPP (*SEPP (Exempt and Complying Development Codes) 2008*), which does not have any comparable provision. The proposal is consistent.

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

Detailed assessment of consistency is contained in **Appendix C**.

The most relevant Direction is **6.3 Site Specific Provisions**. The Planning Proposal is consistent by introducing a wider exempt development solution in relation to the Grantham Lane issue.

Arguably Direction **4.4 Planning for Bushfire Protection** applies on the basis that the exempt development change could in the future apply to land which is, or is in proximity to, land mapped as bushfire prone. As such, following issue of the Gateway determination, it will be necessary to consult with the Commissioner of the Rural Fire Service.

It is noted that the notification process under the *Roads Act 1993* includes notification for the Rural Fire Service to be involved at that time. The other aspects of the Direction are not applicable in this case.

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?**

No.

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

No.

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

The proposal simplifies processing road closures which require a subdivision, and removes LEP mapping inconsistencies for development involving road closures in the vicinity of Windmill Hill, Pacific Drive, Port Macquarie.

D - State and Commonwealth interests.

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

Yes.

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

Views to be obtained following issue of Gateway determination.

Consultation will take place with:

- Dept of Industry - Lands and Forestry
- Rural Fire Service.

Part 4 – Mapping

A - Affected land

Refer to **Background** on page 11 for the location of the proposed road closures that initiated this Planning Proposal.

The proposed exempt development provision could apply to (parts of) public roads anywhere in the Council area, and cannot be identified at this time.

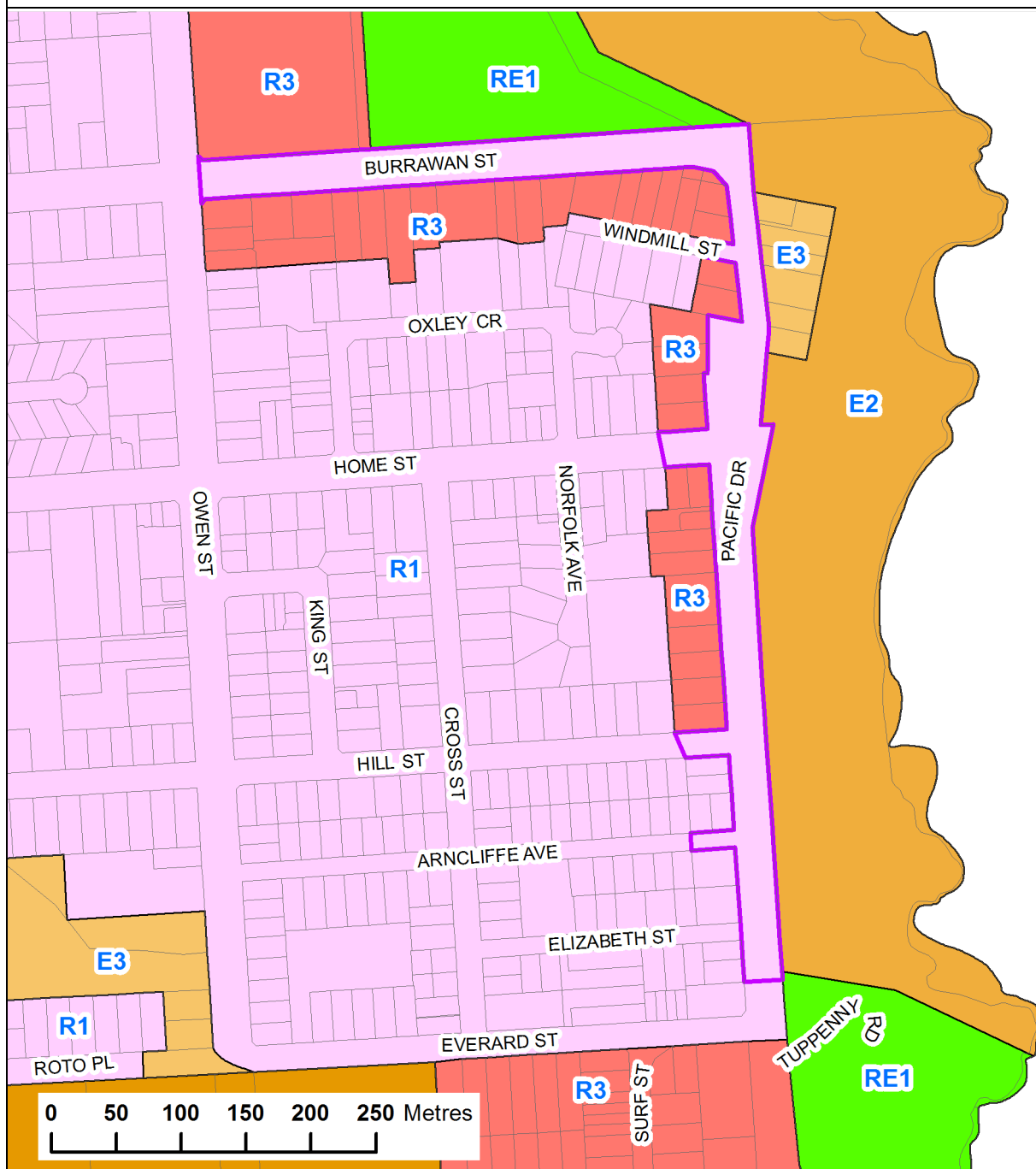
While for the roads at Windmill Hill, Port Macquarie the proposed mapping changes are illustrated below, no change is required for the Lot Size Map. However, for comparison purposes an extract of the current mapping is still provided below.

B - Comparison of before and after

Below are map extracts at a scale of 1:5,000 showing the current mapping and proposed changes. The legal maps, at a scale of 1:10,000, will contain additional information.

Land Zoning Map:

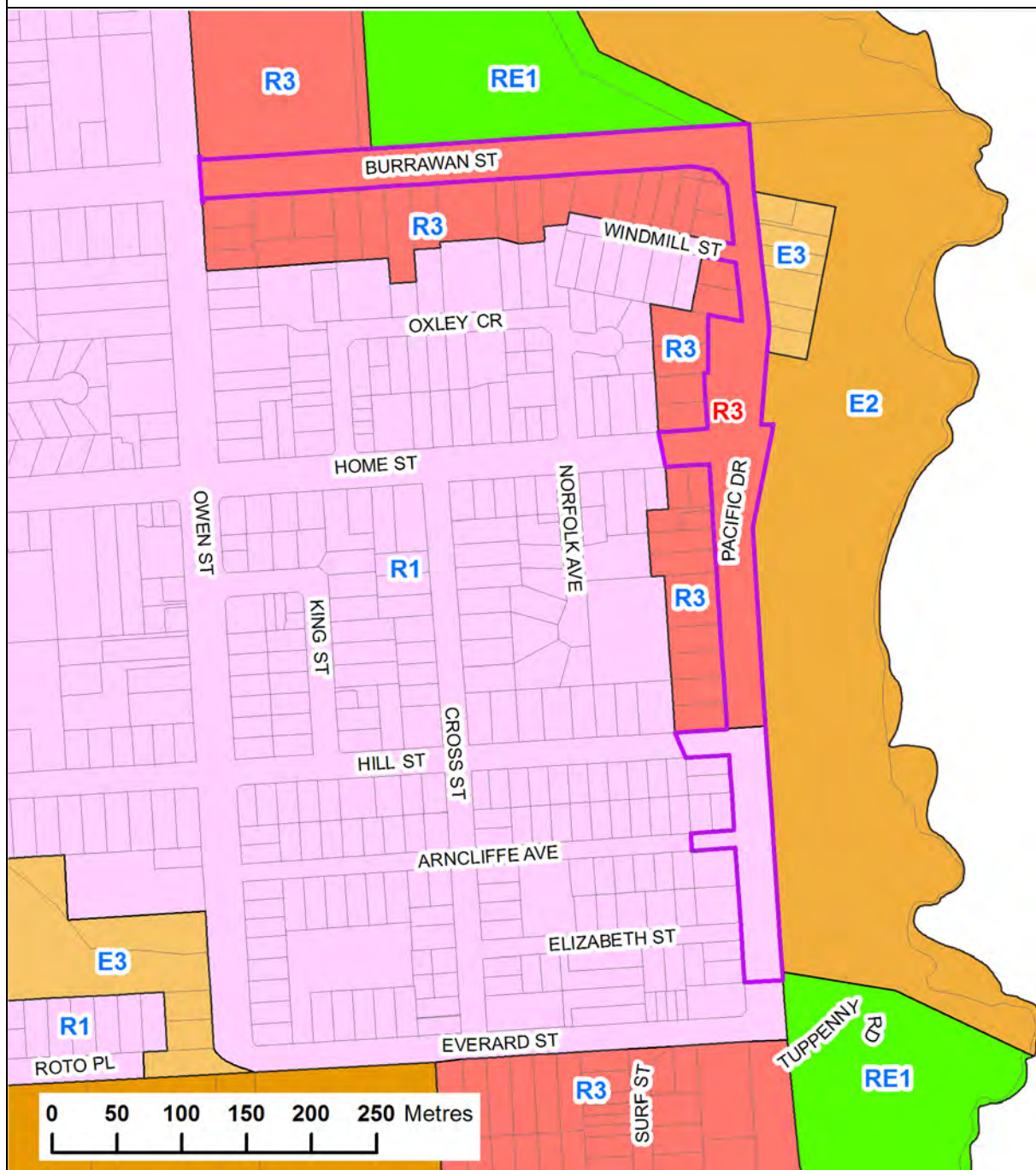
Current



Zone Legend

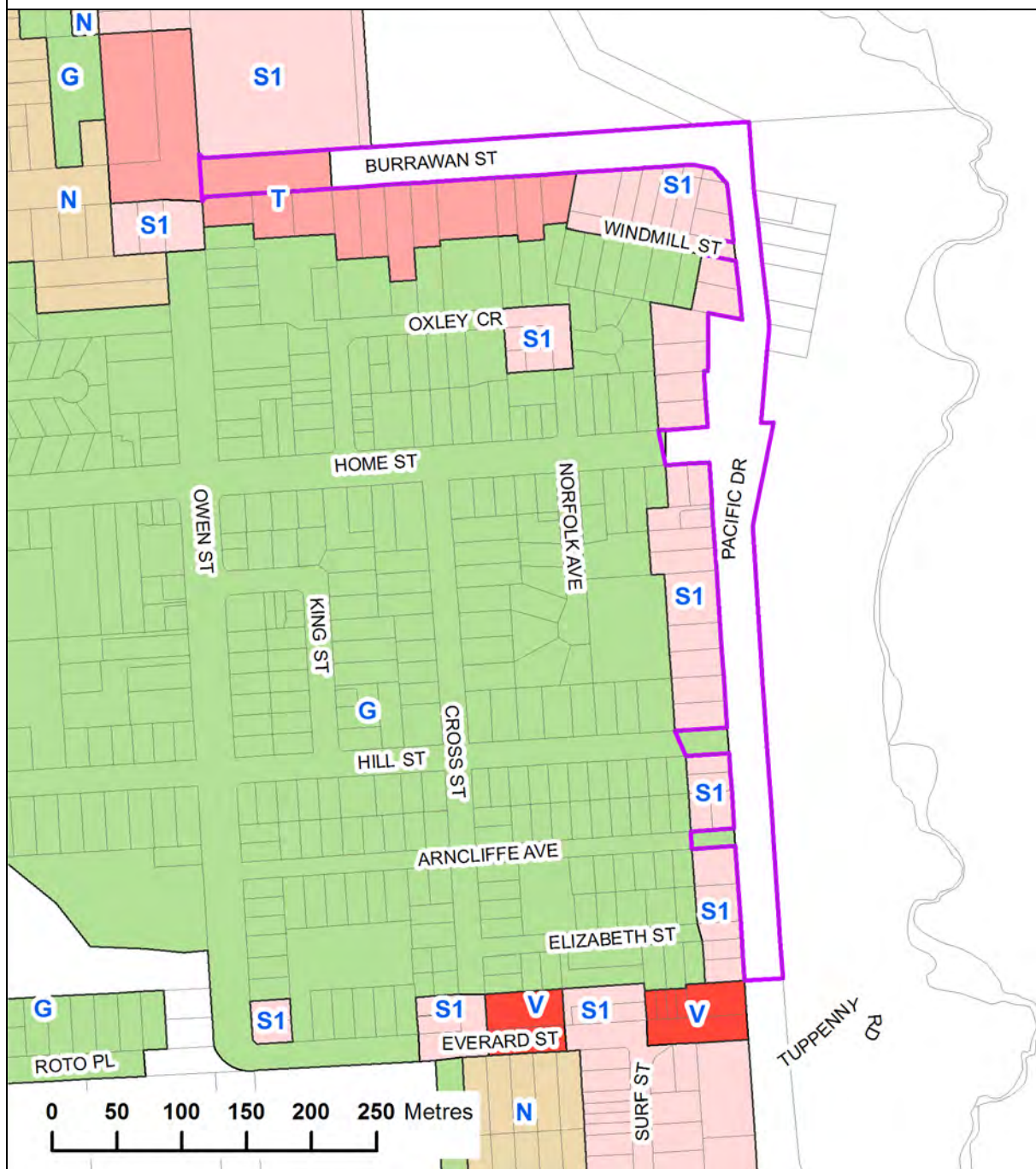
- E2 Environmental Conservation
- E3 Environmental Management
- R1 General Residential
- R3 Medium Density Residential
- RE1 Public Recreation

Proposed



Floor Space Ratio Map

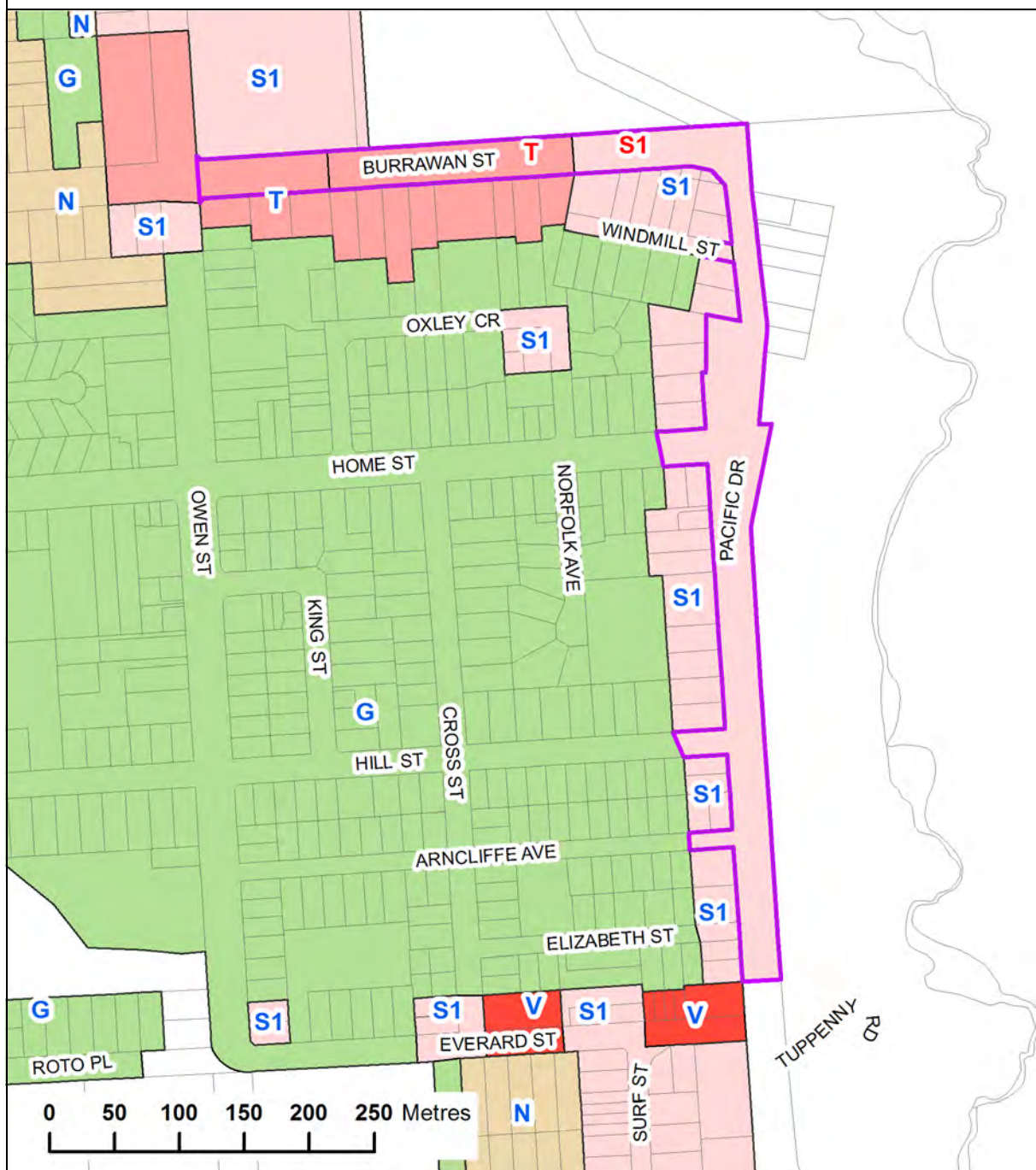
Current



Maximum Floor Space Ratio (n:1)

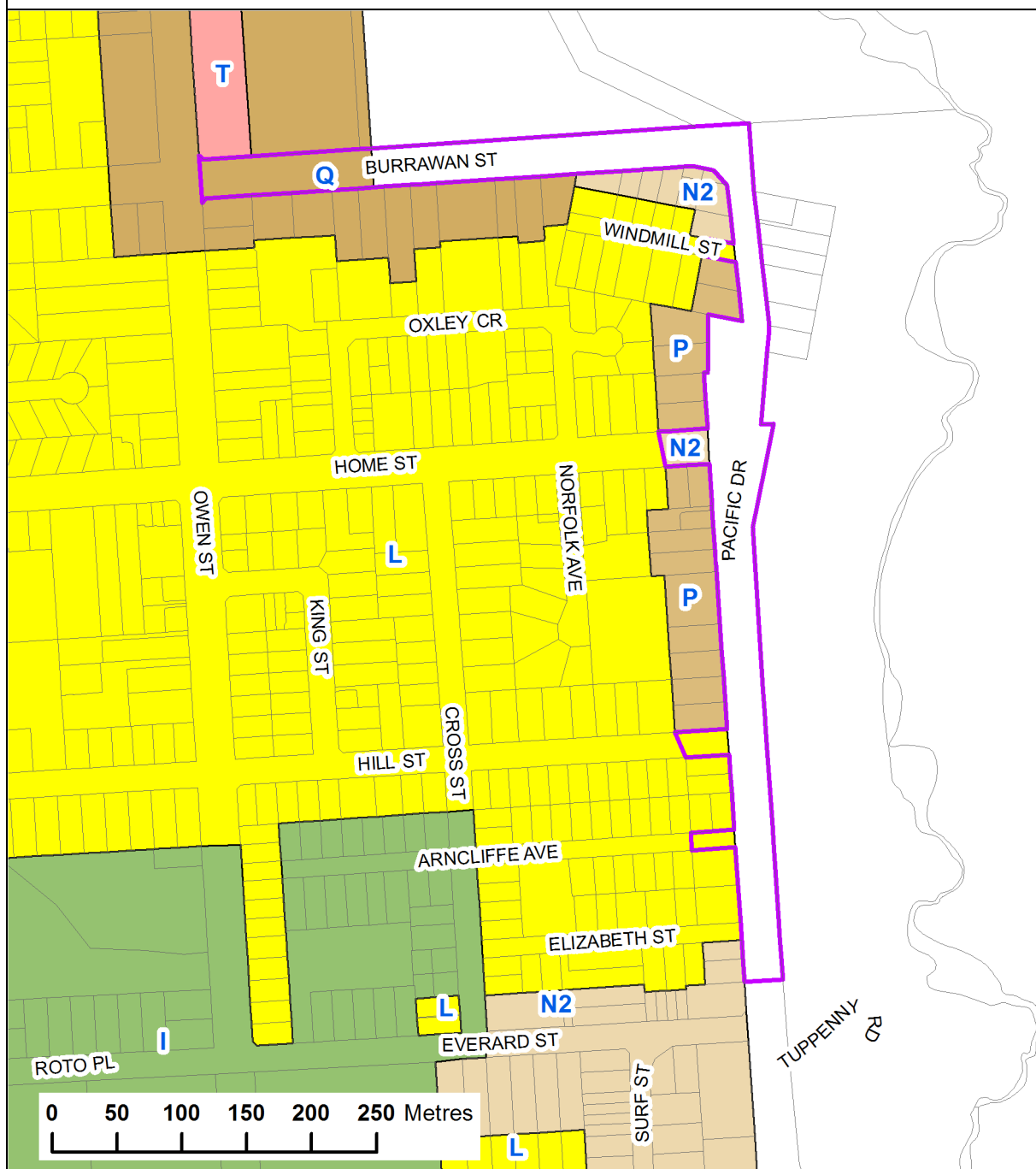
G	0.65
N	1.00
S1	1.50
T	2.00
V	3.00

Proposed



Height of Buildings Map

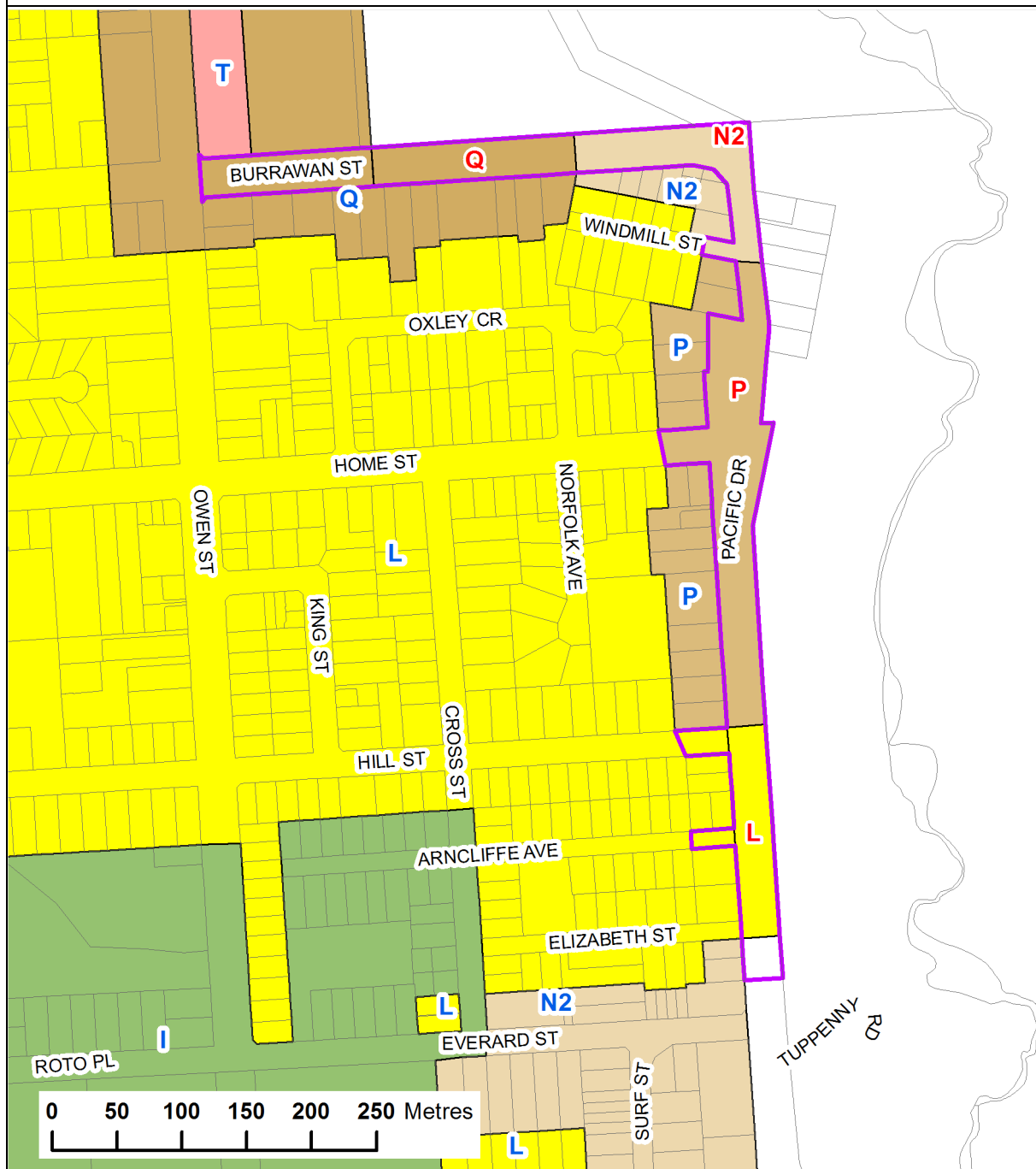
Current



Maximum Height of Buildings (metres)

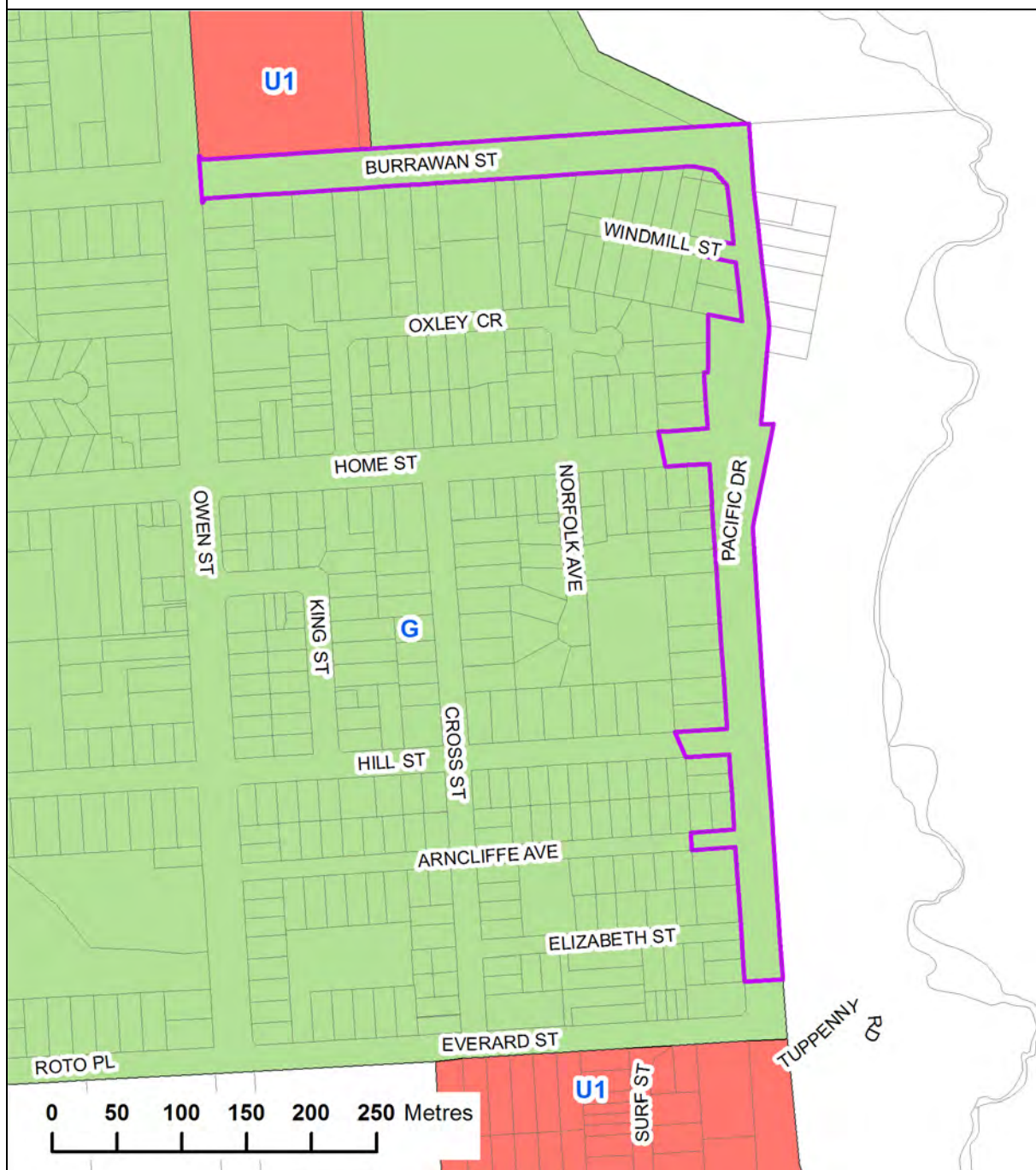
I	8.5
L	11.5
N2	14.5
P	17.5
Q	19.0
T	26.5

Proposed



Lot Size Map

Current and no change proposed



Minimum Lot Size (square metres)

G	450
U1	1000

C - Draft LEP maps

If the Planning Proposal is approved then the current relevant LEP map sheets will be replaced by the map sheets attached in **Appendix E**.

Note that while these maps may appear like the legal LEP maps, the only LEP maps that have any legal status are those listed as current and viewable on the NSW Legislation website. The map name (at the bottom of the map legend), including the date (“YYYYMMDD”) at the end, is important. The date represents the date that version of the map was prepared, and not the date that it took effect (if at all).

If the Planning Proposal is approved then the final maps may be updated from the maps forming part of this Planning Proposal to include:

- any changes made by Council,
- formatting changes, and
- any applicable updates arising from other concurrent LEP amendments.

Part 5 – Community Consultation

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

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

On this basis a 14 day public exhibition period is appropriate.

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

- notification in a locally circulating newspaper.
- notification on Council’s website.
- written notification to adjoining landowners - only as mentioned below.

For the proposal to make subdivision required to identify a road closures exempt development, it is not possible to identify the land for which this will apply in the future. In relation to the proposed closure of part of Grantham Lane, the 3 adjoining land parcels are owned by Council or by the landowner requesting the road closure. Also, proposed road closures will continue to be subject to notification under the *Roads Act 1993*.

In relation to the proposed LEP mapping changes for roads in the vicinity of Pacific Drive, Windmill Hill, Port Macquarie it is proposed to notify the owners of the land immediately adjoining the current road closure. They are engaged in seeking the road closure, or have previously been notified, but it is considered appropriate to provide notification of the proposed LEP mapping changes affecting the land proposed to be closed.

For the balance of the road areas subject to LEP map amendments, there are 42 properties, with 109 Strata Plan lots within 12 of those properties. There is little likelihood of any development on the roads that might affect them, and anyway they would be separately notified of any proposed road closure. They will not be notified now.

Part 6 – Project Timeline

This project timeline is based on anticipated dates and timeframes, although there can be unexpected delays. It is assumed that Council does have delegation to carry out certain plan-making functions. Delegation would be exercised by Council's General Manager or the Director of Development and Environment.

Anticipated dates	2017						2018											
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Commencement (date of Gateway determination)			X															
Timeframe for the completion of required technical information																		
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)				X														
Commencement and completion dates for public exhibition period					X	X												
Dates for public hearing (if required)																		
Timeframe for consideration of submissions							X											
Timeframe for the consideration of a proposal post exhibition								X										
Date of submission to the department to finalise the LEP																		
Date Council will make the plan (if delegated)										X								
Date Council will forward to the department for notification.										X								

Appendix A – Gateway Determination

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

The Determination will identify processing requirements, such as:

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

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

Appendix B – Consistency with applicable State Environmental Planning Policies

Listed below are the SEPPs that apply to land within the Port Macquarie-Hastings Local Government Area. As at 1/9/2017.

State Environmental Planning Policies	Consistency
14 Coastal Wetlands	Not applicable
21 Caravan Parks	Not applicable
26 Littoral Rainforests	Not applicable
30 Intensive Agriculture	Not applicable
33 Hazardous and Offensive Development	Not applicable
36 Manufactured Home Estates	Not applicable
44 Koala Habitat Protection	Not applicable
50 Canal Estate Development	Not applicable
55 Remediation of Land	Not applicable
62 Sustainable Aquaculture	Not applicable
64 Advertising and Signage	Not applicable
65 Design Quality of Residential Flat Development	Not applicable
71 Coastal Protection (c/l 7-8)	Not applicable Not applicable
(Affordable Rental Housing) 2009	Not applicable
(Building Sustainability Index: BASIX) 2004	Not applicable
(Educational Establishments and Child Care Facilities) 2017	Not applicable
(Exempt and Complying Development Codes) 2008	Consistent - this SEPP doesn't contain similar provisions.
(Housing for Seniors or People with a Disability) 2004	Not applicable
(Infrastructure) 2007	Not applicable
(Mining, Petroleum Production and Extraction Industries) 2007	Not applicable
(Miscellaneous Consent Provisions) 2007	Not applicable
(Rural Lands) 2008	Not applicable (Note: clause 9 of the SEPP does not apply to the Council area - instead refer to clauses 1.9 and 4.2 of PMH LEP 2011.)
(State and Regional Development) 2011	Not applicable
(State Significant Precincts) 2005	Not applicable
(Vegetation in Non-Rural Areas) 2017	Not applicable

Appendix C – Consistency with applicable Section 117 Ministerial Directions

Listed below are the Section 117 (2) Directions (including Objectives) that apply to land within the Port Macquarie-Hastings Local Government Area. As at 5/08/2017

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

Section 117(2) Directions and Objectives	Consistency
1 Employment and Resources	
1.1 Business and Industrial Zones The objectives of this direction are to: (a) encourage employment growth in suitable locations, (b) protect employment land in business and industrial zones, and (c) support the viability of identified strategic centres.	Not applicable
1.2 Rural Zones The objective of this direction is to protect the agricultural production value of rural land.	Not applicable
1.3 Mining, Petroleum Production and Extractive Industries The objective of this direction is to ensure that the future extraction of State or regionally significant reserves of coal, other minerals, petroleum and extractive materials are not compromised by inappropriate development.	Not applicable
1.4 Oyster Aquaculture The objectives of this direction are: (a) to ensure that Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area are adequately considered when preparing a planning proposal, (b) to protect Priority Oyster Aquaculture Areas and oyster aquaculture outside such an area from land uses that may result in adverse impacts on water quality and consequently, on the health of oysters and oyster consumers.	Not applicable
1.5 Rural Lands The objectives of this direction are to: (a) protect the agricultural production value of rural land, (b) facilitate the orderly and economic development of rural lands for rural and related purposes.	Not applicable
2 Environment and Heritage	
2.1 Environmental Protection Zones The objective of this direction is to protect and conserve environmentally sensitive areas.	Not applicable
2.2 Coastal Protection The objective of this direction is to implement the principles in the NSW Coastal Policy.	Not applicable
2.3 Heritage Conservation	Not applicable

Section 117(2) Directions and Objectives	Consistency
The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance.	
2.4 Recreation Vehicle Areas The objective of this direction is to protect sensitive land or land with significant conservation values from adverse impacts from recreation vehicles.	Not applicable
3 Housing, Infrastructure and Urban Development	
3.1 Residential Zones The objectives of this direction are: (a) to encourage a variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	Not applicable
3.2 Caravan Parks and Manufactured Home Estates The objectives of this direction are: (a) to provide for a variety of housing types, and (b) to provide opportunities for caravan parks and manufactured home estates.	Not applicable
3.3 Home Occupations The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Not applicable
3.4 Integrating Land Use and Transport The objective of this direction is to ensure that urban structures, building forms, land use locations, development designs, subdivision and street layouts achieve the following planning objectives: (a) improving access to housing, jobs and services by walking, cycling and public transport, and (b) increasing the choice of available transport and reducing dependence on cars, and (c) reducing travel demand including the number of trips generated by development and the distances travelled, especially by car, and (d) supporting the efficient and viable operation of public transport services, and (e) providing for the efficient movement of freight.	Not applicable
3.5 Development Near Licensed Aerodromes The objectives of this direction are: (a) to ensure the effective and safe operation of aerodromes, and (b) to ensure that their operation is not compromised by development that constitutes an obstruction, hazard or potential hazard to aircraft flying in the vicinity, and (c) to ensure development for residential purposes or human occupation, if situated on land within the Australian Noise Exposure Forecast (ANEF)	Not applicable

Section 117(2) Directions and Objectives	Consistency
contours of between 20 and 25, incorporates appropriate mitigation measures so that the development is not adversely affected by aircraft noise.	
3.6 Shooting Ranges The objectives are: (a) to maintain appropriate levels of public safety and amenity when rezoning land adjacent to an existing shooting range, (b) to reduce land use conflict arising between existing shooting ranges and rezoning of adjacent land, (c) to identify issues that must be addressed when giving consideration to rezoning land adjacent to an existing shooting range.	Not applicable
4 Hazard and Risk	
4.1 Acid Sulfate Soils The objective of this direction is to avoid significant adverse environmental impacts from the use of land that has a probability of containing acid sulfate soils.	Not applicable
4.2 Mine Subsidence and Unstable Land The objective of this direction is to prevent damage to life, property and the environment on land identified as unstable or potentially subject to mine subsidence.	Not applicable
4.3 Flood Prone Land The objectives of this direction are: (a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the <i>Floodplain Development Manual 2005</i> , and (b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.	Not applicable
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. <i>Further details:</i> When this direction applies This direction applies when a relevant planning authority prepares a planning proposal that will affect, or is in proximity to land mapped as bushfire prone land. What a relevant planning authority must do if this direction applies (4) In the preparation of a planning proposal the relevant planning authority must consult with the Commissioner of the NSW Rural Fire Service following receipt of a gateway determination under section 56 of the Act, and prior to undertaking	For the known road closures this Direction does not affect, or is not in proximity to land mapped as bushfire prone land. Future road closures under the proposed exempt development provisions could apply to such land. On that basis the Direction could be relevant. Consultation could be made with the Rural Fire Service following receipt of the Gateway determination. The proposal is consistent with subclause (5). It is noted that clause 5.11 of the LEP authorises bush fire hazard reduction work without consent. The provisions of subclause (6) are not relevant as there are not specific development proposal relating to land mapped or in proximity to land mapped as bushfire prone land.

Section 117(2) Directions and Objectives	Consistency
community consultation in satisfaction of section 57 of the Act, and take into account any comments so made, (5) A planning proposal must: (a) have regard to <i>Planning for Bushfire Protection 2006</i>, (b) introduce controls that avoid placing inappropriate developments in hazardous areas, and (c) ensure that bushfire hazard reduction is not prohibited within the APZ. (6) A planning proposal must, where development is proposed, comply with the following provisions, as appropriate: (a) provide an Asset Protection Zone (APZ) incorporating at a minimum: (i) an Inner Protection Area bounded by a perimeter road or reserve which circumscribes the hazard side of the land intended for development and has a building line consistent with the incorporation of an APZ, within the property, and (ii) an Outer Protection Area managed for hazard reduction and located on the bushland side of the perimeter road, (b) for infill development (that is development within an already subdivided area), where an appropriate APZ cannot be achieved, provide for an appropriate performance standard, in consultation with the NSW Rural Fire Service. If the provisions of the planning proposal permit Special Fire Protection Purposes (as defined under section 100B of the <i>Rural Fires Act 1997</i>), the APZ provisions must be complied with, (c) contain provisions for two-way access roads which links to perimeter roads and/or to fire trail networks, (d) contain provisions for adequate water supply for firefighting purposes, (e) minimise the perimeter of the area of land interfacing the hazard which may be developed, (f) introduce controls on the placement of combustible materials in the Inner Protection Area.	
5 Regional Planning	
5.4 Commercial & Retail Development along the Pacific Hwy, North Coast The objectives for managing commercial and retail development along the Pacific Highway are: (a) to protect the Pacific Highway's function, that is to operate as the North Coast's primary inter- and intra-regional road traffic route; (b) to prevent inappropriate development fronting the highway;	Not applicable

Section 117(2) Directions and Objectives	Consistency
(c) to protect public expenditure invested in the Pacific Highway; (d) to protect and improve highway safety and highway efficiency; (e) to provide for the food, vehicle service and rest needs of travellers on the highway; and (f) to reinforce the role of retail and commercial development in town centres, where they can best serve the populations of the towns.	
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.	Not applicable
6 Local Plan Making	
6.1 Approval and Referral Requirements The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Not applicable
6.2 Reserving Land for Public Purposes The objectives of this direction are: (a) to facilitate the provision of public services and facilities by reserving land for public purposes, and (b) to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.	Not applicable
6.3 Site Specific Provisions The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	Consistent. This Direction discourages the use of one-off variations - seek to apply provisions with wider application.

Appendix D – LEPs and Council Land, Best Practice Guideline

As this Planning Proposal relates to land in which Council has an interest, the requirements of **LEPs and Council Land, Best Practice Guideline**, January 1997, from the former NSW Department of Urban Affairs and Planning are being followed. One of the requirements is that a copy of the Guideline is to be included in the Planning Proposal.

A copy follows.

LEPs and Council Land

**BEST
PRACTICE
GUIDELINE**

**January
1997**

KEY ISSUES IN THIS GUIDELINE

- status of this guideline
- requirements for exhibition
- notification of outcome
- withdrawal of delegation

Guideline for
councils using
delegated powers to
prepare LEPs
involving land that is
or was previously
owned or controlled
by council.

New South Wales
**DEPARTMENT OF URBAN AFFAIRS
AND PLANNING**

SECTION ONE - INTRODUCTION

1.1 REASON FOR THIS GUIDELINE

Instances where a council proposes to change the planning controls that apply to land in which it has or has had an interest present an unusual situation. In many cases Council will be both regulator acting in the interest of the community, and entrepreneur seeking to maximise the benefit realised from a community asset.

These dual roles may give rise to a real conflict of interest or the appearance that council is affording itself special treatment. While both roles are legitimate, council must make sure that its decisions as regulator are not biased by its financial interests in property.

The mere fact that council is both applicant and decision maker is sufficient to create an appearance of unfairness and to erode the community's confidence in the planning process.

Council has a responsibility to ensure that any proposal is objectively assessed. It is important that the community sees proper procedures being followed and balanced, consistent assessment of environmental, social and economic considerations in these situations.

As a hypothetical example, consider the following:

Ten years ago council carried out and published a retail centre study. The study identified key sites which should be held for major development or re-development in the future.

Two years after the study was adopted, council bought one of the key vacant sites and made it

temporarily available to address a shortfall in public car parking.

The time is now right for the site to be developed for retail/residential use and council has entered into an agreement with a developer which ensures public car parking will be provided as part of a new development.

Council prepares a draft LEP to rezone the land from its original residential zone to the mixed use zone in place throughout the retail centre. The controls and urban design principles covering adjoining sites will apply to council's land.

Even based on this brief description, the council's actions appear reasonable. A different impression may be gained by local residents who hear through 'the grapevine' that council is going to rezone the community's land, close the public car park, sell the land to a big developer to build a retail/residential tower and make \$1.3 million profit.

The aim of this guideline is to make the planning process open to public scrutiny by ensuring that all relevant information is available in situations such as the one described above. Through this the community can develop confidence that fair, proper processes have been followed and that council has managed its conflicting interests satisfactorily.

1.2 DELEGATION

Section 23 of the Environmental Planning and Assessment Act 1979 (the Act) allows the Director-General of the Department of Urban Affairs and Planning to delegate certain planning powers to councils. At present the Director-General delegates to some councils the ability to exercise local environmental plan (LEP) preparation powers under s.65 and s.69 of the Act.

A report released by the Independent

~~highlighted several instances where with a~~
Commission Against Corruption in 1992 highlighted several instances where councils did not satisfactorily deal with a conflict of interest between their roles as regulator and developer. This prompted the Director-General to withdraw delegated powers for LEPs involving land that is owned or controlled by a council or was owned or controlled by a council where any aspect of the LEP was the subject of an undertaking between council and the purchaser.

The Director-General has now reinstated delegated powers, confident that this guideline will assist councils to administer the LEP making process in a fair and responsible manner. This guideline is intended to assist by ensuring that conflicts of interest are disclosed and resolved in an accountable and open manner. Where councils' actions are fair and reasonable, the decision process will be seen to be impartial.

In exceptional circumstances a council or the Director-General still may decide that it is not appropriate for a council to exercise delegated LEP making powers (further information in Section 3.).

1.3 STATUS OF THIS GUIDELINE

This guideline is referred to in the instrument of delegation issued by the Director-General regarding powers under s.65 and s.69 of the Act. Councils are allowed to exercise these powers in the preparation of LEPs that apply to land that is owned or controlled by Council, or was owned or controlled by Council and is the subject of an undertaking between council and the purchaser (referred to from here on as *council land*), if they comply with this guideline.

This guideline does not replace the requirements in the Act concerning the

preparation and exhibition of LEPs. The guideline adds detail and specifies several additional requirements where a council wishes to use its delegated powers to prepare an LEP that applies to *council land*.

On 22 November 1990 the Department issued Department of Planning Circular No. C18 titled *Processes for the Rezoning of Council Assets for Disposal*. That Circular addresses rezoning of council owned land generally and is advisory only.

This guideline has a focus on matters concerning the exercise of delegated powers and must be followed when delegation is used. Both provide consistent advice on a number of common issues, and the additional information in the earlier Circular still may be of assistance to councils in some cases.

SECTION 2 - REQUIREMENTS

2.1 EXHIBITION

When a council exhibits a draft LEP (in accordance with s.66 of the Act) that applies to *council land* this guideline requires additional information to be included.

The aim of this is to make clear Council's interest in the land and the reasons why the draft plan is being prepared. This makes the plan preparation process more open and allows the community to assess proposals with a full appreciation of all relevant information.

Consistent with this aim, information must be exhibited in a clear manner. Information must be detailed enough to be informative, without being overwhelming.

The following information must be included in the material displayed during exhibition:

2.1.1 Statement of Council's Interest

A written statement must be provided which describes Council's interest in the land. This should include information such as:

- the nature of Council's interest in the land (e.g. Council has a 30 year lease over the site, Council owns the land freehold);
- when Council first acquired an interest in the land;
- why Council acquired an interest in the land (e.g. for an extension to the adjoining park, Council was given responsibility for the land by a State authority);

- how Council acquired its interest in the land (e.g. the land was purchased, through s.94); and
- for land previously owned or controlled by Council, whether any aspect of the LEP formed part of the agreement to dispose of the land, and the terms of any such agreement

2.1.2 Purpose of the draft LEP:

A written statement must be provided explaining why Council is preparing the draft plan. A statement such as "to rezone the land" is not sufficient. The following must be addressed:

- why the draft LEP is being prepared (e.g. to facilitate growth of a commercial centre, to provide opportunities for higher density residential development near a railway station, to allow a child care centre in an open space zone);
- how the draft plan will affect planning controls (e.g. change a residential zoning to commercial, introduce heritage controls); and
- what prompted preparation of the draft LEP (e.g. the findings of a residential development strategy, a request from an affected land owner, Council's intention to dispose of the land).

2.1.3 Anticipated development

Knowing what type of development may result from a change in planning controls helps everyone interested in the draft LEP understand how they will be affected in real life. This allows people to make more constructive comments than they otherwise might. The following must be addressed:

- what actual physical or operational changes may result? A change to the maximum floor space ratio, for example, may not mean very much to most people. It would be more helpful to

explain that the change will create an opportunity for several additional storeys of development on the site, subject to assessment and approval in accordance with Council's controls and policies;

- is the draft LEP being prepared to permit a particular proposal? If so, any available details of the proposal should be included in the exhibition.

2.1.4 Financial Implications

While any change in planning controls will have some effect on land values, there will be instances where Council or another party stands to make a substantial financial gain or loss as a result of making an LEP.

In some cases the increase in land value resulting from an LEP may be one of the reasons why council has decided to prepare the LEP. Council may have even made an agreement for the sale or lease of the land conditional on the controls being changed.

The community should be aware of the financial implications of a change in planning controls, especially when they are more than a minor consequence of the change. While it may be inappropriate to make known all financial details (in the interest of protecting commercial advantage) Council must at least provide an indication of the magnitude of any financial gains or losses.

Council could indicate the magnitude of value that will be added to the land by comparing current and likely future land value (e.g. the land is currently valued at \$100 m², nearby land zoned for commercial development is valued at between \$200 and \$250 m²).

Where an agreement for lease or sale of the land has been made, council must at least state that this is the case and provide basic details of the agreement. Information on

the terms of the agreement should be made available where possible.

2.1.5 Guideline

A copy of this guideline must be included in the exhibition. This helps the public understand why certain information has been exhibited and to check that all relevant information has been made available.

2.2 NOTIFICATION

After the LEP has been made or a decision taken not to proceed with the draft LEP, everyone who made a written submission must be notified in writing. Notification must be sent within 14 days of the decision and must include an explanation of how the issues raised in the submission were addressed and the reasons for council's decision.

2.3 MONITORING

Although the Director-General has delegated certain powers to councils, she retains a responsibility to make sure that the LEP making system operates satisfactorily. To provide for monitoring, the following is required of councils:

- a copy of all written material to be exhibited must be included with Council's s.64 submission;
- where LEPs are prepared using s.69 delegated powers: a section must be added to the s.69 report to the Minister briefly setting out Council's interest in the land, any conflict of interest, issues raised in any relevant submissions, and an explanation of how these issues have been addressed or resolved;

- where the s.69 report will be prepared by the Director-General : a copy of the final report submitted to Council (or where this report does not include the matters listed in the previous point - a report dealing with these matters) must be included in the s.68(4) submission.

Regional Managers will monitor councils' compliance on an ongoing basis. A full review of the operation of this guideline will be carried out 12 months after delegation is reinstated, with the involvement of the Local Government Liaison Committee.

SECTION 3 - OTHER MATTERS

3.1 WITHDRAWAL OF DELEGATION BY THE DIRECTOR-GENERAL

The option of the Director-General withdrawing delegation for a particular LEP (or from a particular council) is always available. This option may be exercised in circumstances where it is unlikely that, or unreasonable to expect that a council will be able to deal with a LEP in an objective and impartial way.

While it is not possible to envisage every such situation, the following provides an indication of possible circumstances:

- where controversial events precede the decision to prepare a LEP;
- where the community has strong feelings or an emotional attachment to the land or buildings involved;
- where the magnitude of the benefits (financial or otherwise) that Council may obtain as a result of making the LEP is significant;
- where strong community opposition to the LEP is shown by: submissions during exhibition, letters to the Director-General or Minister, or extensive media coverage;
- where an unreasonably short, poorly timed (ie. during a holiday period) or uninformative exhibition is held by Council; or
- where Council's consideration of relevant issues is prejudiced and a biased or unfair outcome is likely.

If experience shows that a particular council is not able to exercise delegated LEP making powers in a responsible way, the Director-General may withdraw delegation for future LEPs in the interest of

maintaining the integrity of the planning system.

3.2 WHERE COUNCIL DECIDES NOT TO USE DELEGATION

There may be occasions on which the nature of a conflict of interest or the sensitivity of a proposal make it very difficult for Council to impartially prepare an LEP. While councils are encouraged to use their delegated powers whenever possible, there may be cases where it would be best for the Department to process an LEP.

Where a council believes that it is in this situation, contact should be made with the local Regional Manager from the Department to discuss possible alternative arrangements. If the Department feels that a conflict can be satisfactorily managed by council, it will not become involved in the preparation of a draft LEP.

3.3 FURTHER INFORMATION

If you would like to discuss any aspect of this guideline please contact your regional office of the Department.

Appendix E – Map Cover Sheet and new Map Sheets

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 expand on the details in **Part 2** relating to the map sheets.