

**POST-EXHIBITION CHANGES
FOR COUNCIL CONSIDERATION
MEETING DATE: 15 DECEMBER 2016**

Planning Proposal under section 55 of the EP&A Act

Port Macquarie-Hastings LEP 2011 (Amendment No 36)

Rainbow Beach Precinct C, Lake Cathie - Bonny Hills

Ccl ref: PP2015-2.1

DPI ref: PP_2016_PORTM_003_00

Date: 3 November 2016



Planning Proposal status (for this copy)

Stage	Version Date (blank until achieved)
Draft	22 July 2016
Reported to Council (section 55)	10 August 2016
Adopted by Council & referred to Dept of Planning (sec 56 (1))	15 August 2016
Gateway Panel determination (sec 56 (2))	2 September 2016
Revisions required: Yes / No . Completed	Yes. Completed
Public Exhibition (where applicable) (sec 57)	Completed. 16/09-14/10 2016
For Council review (sec 58 (1))	
Adopted by Council for final submission to Dept of Planning (sec 58 (2))	

Council reference: PP2015-2.1

Port Macquarie-Hastings LEP 2011 (Amendment No 36)

Department of Planning & PP_2016_PORTM_003_00

Environment reference:

Council Address

Port Macquarie-Hastings Council
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PORT MACQUARIE NSW 2444

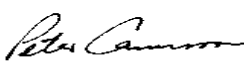
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Adoption of the Planning Proposal

1. For initial Gateway determination

This Planning Proposal was endorsed on **10 August 2016** by *Port Macquarie-Hastings Council*:

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

Content

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

Details of the amendments contained in this **Planning Proposal PP2015-0002.1** are described on pages 5 and 6.

The specifics of how the LEP would be amended are described in **Appendix B**. The Planning Proposal contains statements of the intent for changes to the LEP text, but not the specific wording. Further details of the map changes are contained in **Appendices F and G** - the Map Cover Sheet and the proposed replacement LEP Map sheets respectively.

The affected land is shown on the Site Identification Map sheet contained in **Appendix D**.

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 16 September 2016 to midnight 14 October 2016, with the Planning Proposal available for inspection on Council's community engagement website (www.pmhclisting.com.au) and at Council's offices at Port Macquarie, Laurieton and Wauchope.

Submissions

Any person may make a written submission to Council up until the end of the exhibition period.

The submission should quote Council's reference - PP2015.2.1, 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.

Section 147 (5) of the *Environmental Planning and Assessment Act 1979* states in part:

"A person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of that council,
- (b) all gifts made to any local councillor or employee of that council."

If further information or forms are required, ask Council's Customer Service staff.

Further information

Please contact Steve Schwartz on phone **6581 8111** or email steve.schwartz@pmhc.nsw.gov.au

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Planning Proposal

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

Background

Proposal	Proposal to rezone land from RU1 Primary Production and R1 General Residential to B2 Local Centre, B4 Mixed Use, R1 General Residential, R3 Medium Density Residential, RE1 Public Recreation, E3 Environmental Management and E2 Environmental Conservation.
Property Details	Lots 1 and 2 DP1193553, Lot 5 DP0025886, Lots 1, 2, 3 and 4 DP1150758, Lot 122 DP1106943
Applicant Details	Port Macquarie-Hastings Council
Land owners	St Vincent's Foundation Pty Ltd NSW Department of Education and Communities Port Macquarie-Hastings Council
Brief history	The subject area forms a significant part of Council's Urban Release Area No 14, known as Rainbow Beach. The site is subject to State Government approvals under the repealed Part 3A of the <i>Environmental Planning and Assessment Act 1979</i> . This proposal sets out zoning and related changes to reflect the Part 3A approvals.

Location

A location map is included in Part 4 - Mapping.



Figure 1: Urban Release Area 14 showing Saint Vincent's Foundation (SVF) land (the subject site)

Part 1 - Objectives or Intended Outcomes

The key objective of this planning proposal is to ensure the local environmental plan adequately reflects the concept plan approved by the State Government under the now repealed Part 3A of the *Environmental Planning and Assessment Act 1979* (Part 3A approvals).

The proposed changes facilitate orderly and equitable development of the future village centre at Rainbow Beach and surrounding land by identifying suitable zones for business, medium density residential development, and public recreation.

In addition, suitable environmental zones are proposed to reflect the Part 3A project approval 07_0001 for an environmental corridor through the subject site to protect and sustainably manage local ecological biodiversity and the natural environment.

Relevant development standards and controls are proposed to guide building height, bulk and scale and achieve a mix of lot sizes.

Potentially noise affected land is also identified to ensure an acceptable level of noise is provided within future housing.

Part 2 - Explanation of Provisions

The objective and intended outcomes are to be achieved by amending the *Port Macquarie-Hastings Local Environmental Plan 2011* Land Zoning Map, Floor Space Ratio Map, Lot Size Map, Height of Buildings Map, and Acoustic Controls Map relating to the subject area and as detailed in **Appendix B**.

Further guidance on meeting the LEP controls are being prepared for inclusion in the Port Macquarie-Hastings Development Control Plan.

Part 3 – Justification

A - Need for the planning proposal

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

Yes, the planning proposal has its basis in the *Mid North Coast Regional Strategy 2006-31* as it facilitates development of the identified growth area at Lake Cathie/Bonny Hills.

The planning proposal introduces appropriate zones to facilitate the future land uses as set out in Council's *Urban Growth Management Strategy 2010 – 2031* (UGMS) and consistent with the Part 3A approvals.

The relevant concept plan approval number is 06_0085 determined on 1 March 2012. Note that a modification request has been lodged with the Department of Planning and has yet to be determined.

The relevant project plan approval number is 07_0001 also determined on 1 March 2012.

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

The planning proposal is the best means of achieving the objective as specific changes to the Local Environmental Plan maps are required to adequately reflect the desired land uses from the UGMS and the Part 3A approvals.

B - Relationship to strategic planning framework

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

As described above, the planning proposal is consistent with, and consequential to, the Mid North Coast Regional Strategy. In particular, the proposal follows the Neighbourhood Planning Principles by providing a range of land uses to provide a mix of housing, employment, open space, conservation land and recreational space.

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

The planning proposal is consistent with Council's Community Strategic Plan, in particular by planning 'settlements to accommodate a range of compatible land uses and projected population growth'.

As described above, the planning proposal is consistent with, and identified in the UGMS.

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

There are no State Environmental Planning Policies which prevent the proposed map changes being made.

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

There are sixteen section 117 directions relevant to the planning proposal. A response to each is provided below.

No 1.1 Business and Industrial Zones

This direction applies as the planning proposal will affect land within a proposed business zone.

The proposal is consistent as it:

- gives effect to the objectives of the direction by encouraging population growth around the identified future town at Lake Cathie/Bonnie Hills
- has no effect on existing areas and locations of existing business and industrial zones
- does not reduce the total potential floor space area for employment uses and related public services in business zones
- does not reduce the total potential floor space area for industrial uses in industrial zones, and
- the proposed changes are in accordance with the Mid North Coast Regional Strategy and Council's UGMS.

No 1.2 Rural Zones

This direction applies as the planning proposal will affect land within an existing rural zone.

The proposal is consistent as it does not rezone land from a rural zone to a residential, business, industrial, village, or tourist zone. The proposal will rezone a portion of the RU1 Primary Production Zone to E3 Environmental Management Zone.

No 1.5 Rural Lands

This direction applies as State Environmental Planning Policy (Rural Lands) 2008 applies to the Port Macquarie-Hastings local government area and the planning proposal will affect land within an existing rural zone.

The proposal is inconsistent as it does not follow the Rural Subdivision Principles as it rezones the RU1 Primary Production Zone to E3 Environmental Management Zone.

The provisions of the planning proposal that are inconsistent are justified by the identification of the area within the Lake Cathie/Bonny Hills Growth Area in the Mid North Coast Regional Plan and Council's UGMS. The land forms an important basis for development of the adjacent Urban Release Areas.

No 2.1 Environment Protection Zones

This direction applies to all planning proposals.

The proposal is consistent as it does not alter the Local Environmental Plan provisions that facilitate the protection and conservation of environmentally sensitive areas.

No 2.2 Coastal Protection

This direction applies as the planning proposal applies to land in the coastal zone.

The proposal is consistent as it does not alter the Local Environmental Plan provisions that give effect to the NSW Coastal Policy and related guidelines.

No 2.3 Heritage Conservation

This direction applies to all planning proposals.

The proposal is consistent as it does not alter the Local Environmental Plan provisions that facilitate the conservation of items, areas, objects and places of environmental heritage significance and indigenous heritage significance.

No 2.4 Recreation Vehicle Areas

This direction applies to all planning proposals.

The proposal is consistent as it does not enable land to be developed for the purpose of a recreational vehicle area.

No 3.1 Residential Zones

The direction applies as the planning proposal seeks to alter an existing residential zone boundary.

The proposal is consistent as it will encourage provision of housing that will:

- Broaden the choice of building types and locations available in the housing market by including both R1 General Residential and R3 Medium Density Residential zones, B4

Mixed Use zone and allows for shop top housing in the proposed B1 Neighbourhood Centre zone.

- Make more efficient use of infrastructure and services by clustering development around the future centre.
- Reduce the consumption of land for housing and associated urban development on the urban fringe by focusing development in an identified urban growth area.
- Be of good design through associated development control plan provisions.

The planning proposal does not alter the Local Environmental Plan's requirements with regard to adequate servicing.

The planning proposal does not contain provisions which will reduce the permissible residential density of land.

No 3.2 Caravan Parks and Manufactured Home Estates

This direction applies to all planning proposals.

The planning proposal is consistent as it does not deal with identification of sites for caravan parks or manufactured home estates.

No 3.3 Home Occupations

This direction applies to all planning proposals.

The planning proposal is consistent as it does not alter the Local Environmental Plan provisions related to home occupations.

No 3.4 Integrating Land Use and Transport

This direction applies as the planning proposal seeks to alter a zone relating to urban land.

The planning proposal is consistent as it locates zones in a way that is consistent with the aims, objectives and principles of:

- Improving Transport Choice - Guidelines for planning and development (DUAP 2001), and
- The Right Place for Business and Services - Planning Policy (DUAP 2001).

No 4.1 Acid Sulfate Soils

This direction applies as the planning proposal applies to land having a probability of containing acid sulfate soils as shown on the Local Environmental Plan's Acid Sulfate Soils Maps.

The planning proposal is consistent as it does not alter the Local Environmental Plan provisions regarding Acid Sulfate Soils.

No 4.4 Planning for Bushfire Protection

This direction applies as the planning proposal affects land mapped as bushfire prone land.

The planning proposal is inconsistent as it has not yet consulted with the Commissioner of the NSW Rural Fire Service (RFS) and does not include details of Asset Protection Zones.

Comments from the RFS will be sought following receipt of the Gateway determination and any comments will be taken into account.

No 5.1 Implementation of Regional Strategies

This direction applies as the Mid North Coast Regional Strategy applies to the area.

As described earlier, the planning proposal is consistent with the Mid North Coast Regional Strategy as it facilitates development of an identified urban growth area.

No 6.1 Approval and Referral Requirements

This direction applies to all planning proposals.

The planning proposal is consistent as it does not alter the Local Environmental Plan provisions relating to the concurrence, consultation or referral of development applications and does not identify development as designated development.

No 6.2 Reserving Land for Public Purposes

This direction applies to all planning proposals.

The planning proposal is consistent as it does not alter existing zonings of land reserved for public purposes.

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. The proposed changes reflect the project and concept plans approved by the Deputy Director General of the then Department of Planning and Infrastructure under the now repealed Part 3A of the Environmental Planning and Assessment Act 1979.

Assessment of environmental impacts and proposed mitigation measures was dealt with as part of these approvals and the department was satisfied that the potential impacts of the proposed development have been addressed via the proponent's statement of commitments and the conditions of approval. Planning agreements are in place regarding the establishment and maintenance of environmental lands.

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

No. See above.

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

Social and economic affects were considered as part of the abovementioned Part 3A approvals. In particular, the department considered the proposed residential development would become an appropriate driver of economic development in the growing Port Macquarie-Hastings area as a significant employment generator and in the delivery of new housing.

The department considered the area to be a unique opportunity to set a benchmark for future large scale residential land releases on the Mid North Coast while proposing a development type that is sympathetic to the fragile environment and Aboriginal cultural attributes of the site's coastal location.

The department considered that the project would provide social and economic benefits to the region and was satisfied the site is suitable for the proposed development and in the public interest.

D - State and Commonwealth interests

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

As above, these matters were considered during the State's assessment of the Part 3A project and concept plan approvals and were considered adequately addressed. The department was satisfied that the planning agreement was sufficient to ensure the appropriate provision of local infrastructure for the future development of the area.

The department was satisfied that suitable funding arrangements were in place for State infrastructure.

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

To be advised pending the consultation requirements of the gateway determination.

Part 4 – Mapping

A - Affected land

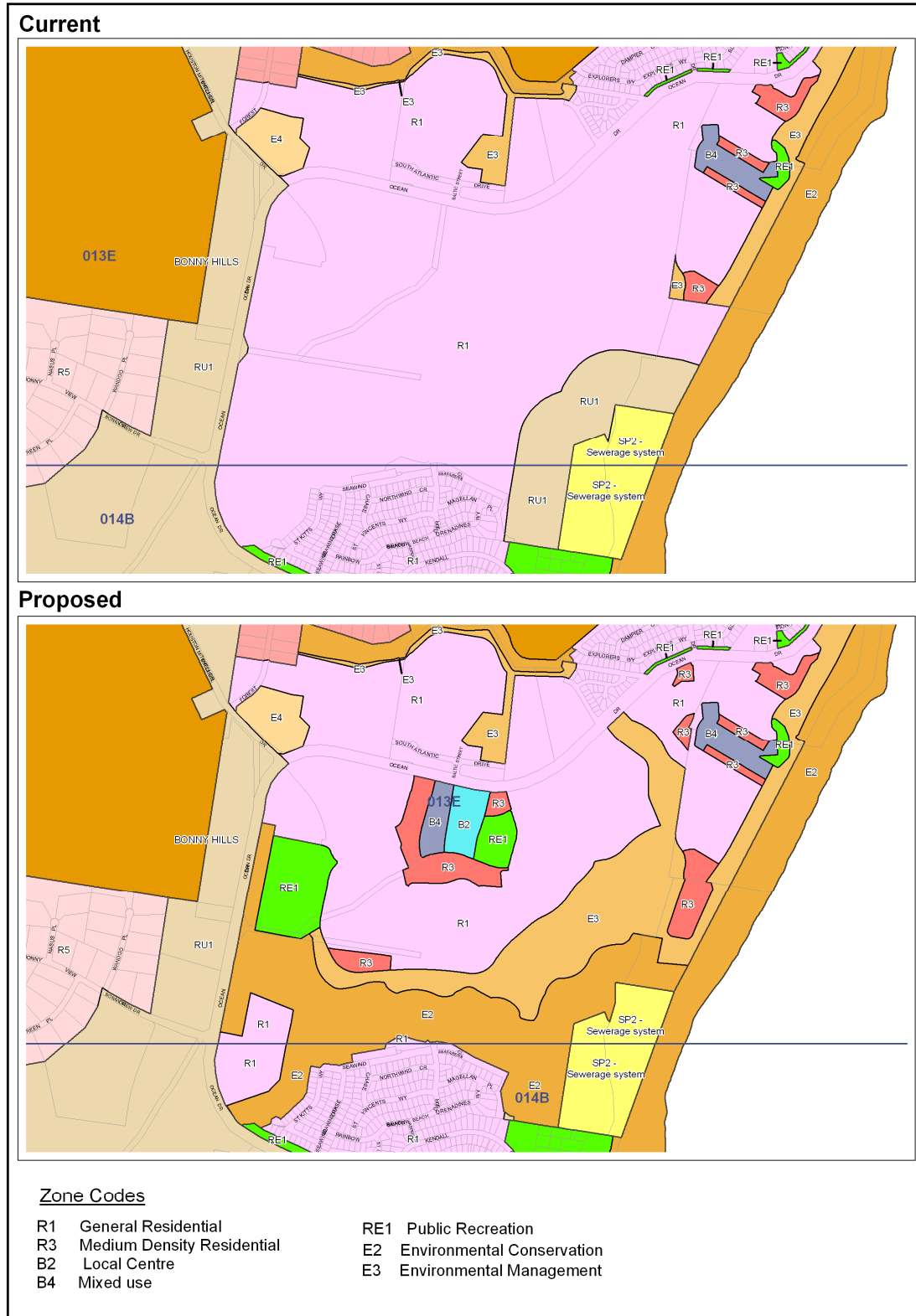
The land directly affected by the planning proposal is formally shown on the Site Identification Map contained in **Appendix C**.

B - Comparison of before and after

Below are map extracts showing the current mapping and proposed changes. This may be simplified from what is shown in the legal maps.

Land Zoning Map (amended post -exhibition)

(Map sheets 013E and 014B)



Lot Size Map (amended post-exhibition)

(Map sheets 013E and 014B)



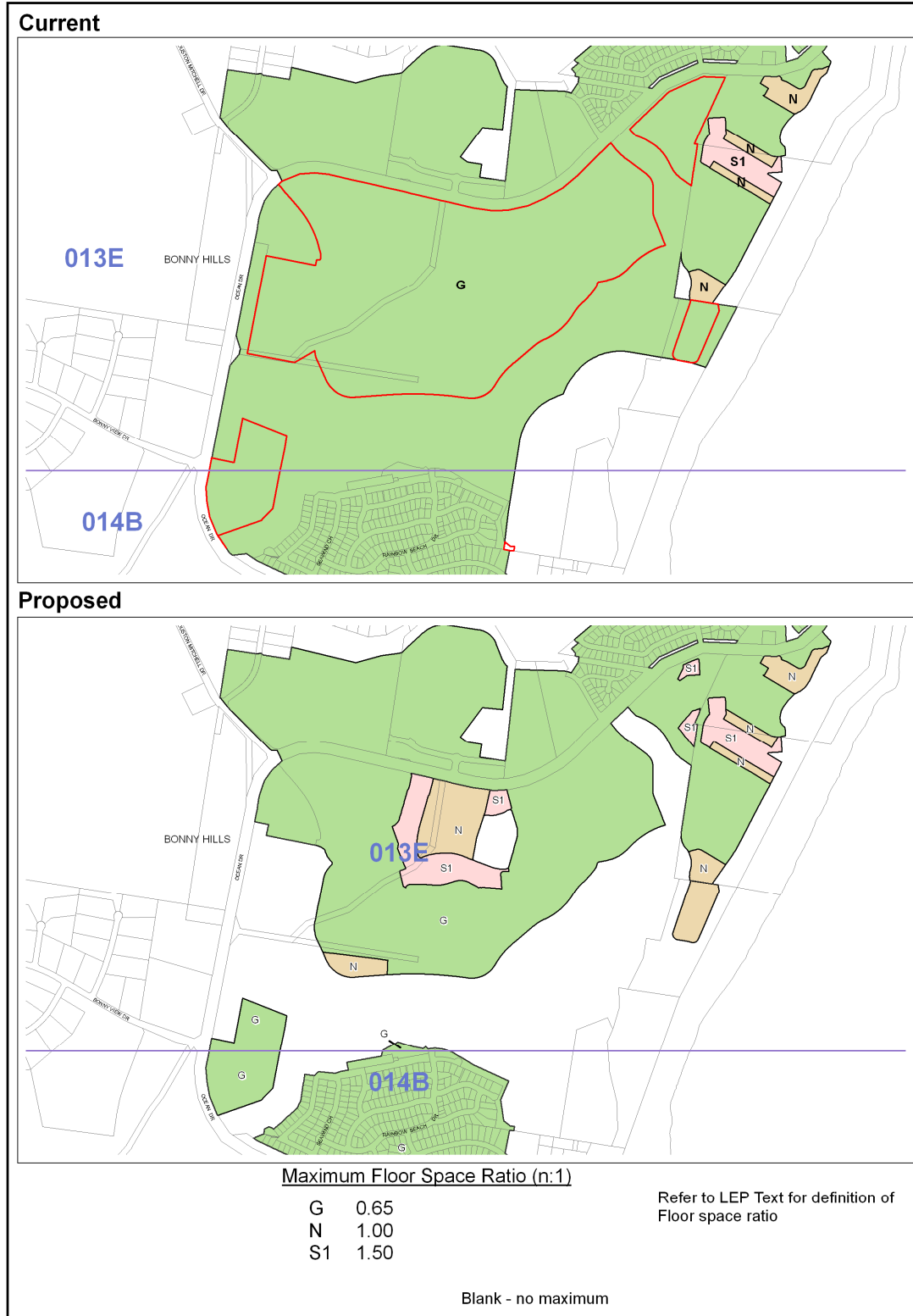
Height of Buildings Map (amended post-exhibition)

(Map sheets 013E and 014B)



Floor Space Ratio Map (amended post-exhibition)

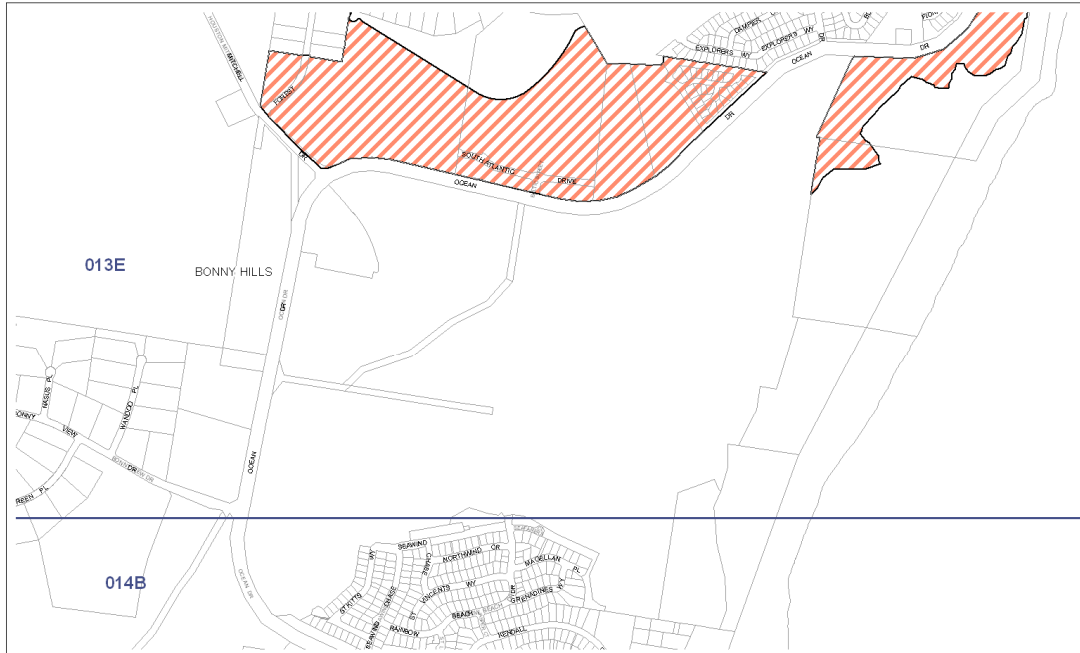
(Map sheets 013E and 014B)



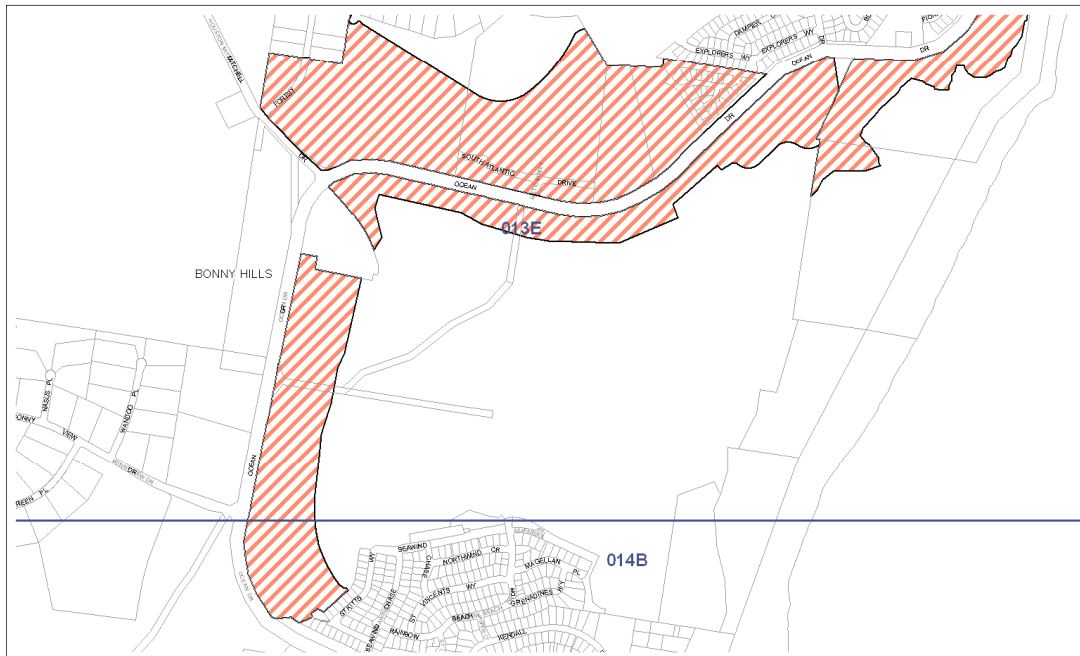
Acoustic Controls Map

(Map sheets 013E and 014B)

Current



Proposed



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 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. However, the proposal will be exhibited concurrently with the associated development control plan changes for a period of 28 days.

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

- Notification in a locally circulating newspaper.
- Notification on Council’s website.
- Written notification to affected and adjoining landowners.

Post-exhibition notes

In accordance with the conditions of the Gateway Determination, on 9 September 2016 the planning proposal was forwarded to the following public authorities for comment:

- Office of Environment and Heritage
- NSW Rural Fire Service
- NSW Roads and Maritime Service
- Department of Industry - Lands
- Department of Education and Training

Comments were received from each authority other than Department of Education and Training. A change was made to the text on page 11 of the planning proposal in response to comments from NSW Roads and Maritime Service regarding funding arrangements for public infrastructure.

On 16 September 2016, public exhibition started with publication of a notice in the local papers for each main centre of Port Macquarie, Wauchope and Camden Haven. Public exhibition concluded on Friday 14 October 2016 with one public submission received from the landowner requesting several changes to the mapping. Changes were made to the maps in response to these comments as follows:

1. Removed a 10 metre strip of zone E3 Environmental Management from the Ocean Drive frontage of the eastern portion of the site. Corresponding changes were also made to the Lot Size, Height of Buildings and Floor Space Ratio maps.
2. Increased the maximum height shown on the Height of Buildings map for the R3 Medium Density Residential zone surrounding the future village centre from 11.5 metres to 14.5 metres.

The changes did not result in a change to the objectives or intended outcomes of the planning proposal and as such do not constitute a variation to the proposal.

The revised planning proposal was forwarded to the Department of Planning and Environment to determine whether an amended Gateway Determination is required.

Part 6 – Project Timeline

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

Anticipated dates	2016						2017											
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Commencement (date of Gateway determination)																		
Timeframe for the completion of required technical information																		
Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination)																		
Commencement and completion dates for public exhibition period																		
Timeframe for consideration of submissions																		
Timeframe for the consideration of a proposal post exhibition																		
Date of submission to the department to finalise the LEP																		
Date Council will make the plan (if delegated)																		
Date Council will forward to the department for notification.																		

Appendix A – Gateway Determination

Appendix B – List of proposed amendments

A. Changes to text

Provision	Changes	Appendix C - details reference
	None proposed	

B. Changes to Map Sheets

The following map sheets are revoked:

Map sheets	Map sheet identifier	Appendix C - details reference
Land Zoning Map LZN_013E LZN_014B	6380_COM_LZN_013E_020_20120809 6380_COM_LZN_014B_020_20110124	
Lot Size Map LSZ_013E LSZ_014B	6380_COM_LSZ_013E_020_20120809 6380_COM_LSZ_014B_020_20110614	
Floor Space Ratio Map FSR_013E FSR_014B	6380_COM_FSR_013E_020_20111111 6380_COM_FSR_014B_020_20110517	
Height of Buildings Map HOB_013E HOB_014B	6380_COM_HOB_013E_020_20120809 6380_COM_HOB_014B_020_20110519	
Acoustic Controls Map	6380_COM_CL1_013E_020_20141209	

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 C - details reference
Land Zoning Map LZN_013E LZN_014B	6380_COM_LZN_013E_020_2016* 6380_COM_LZN_014B_020_2016*	
Lot Size Map LSZ_013E LSZ_014B	6380_COM_LSZ_013E_020_2016* 6380_COM_LSZ_014B_020_2016*	
Floor Space Ratio Map FSR_013E FSR_014B	6380_COM_FSR_013E_020_2016* 6380_COM_FSR_014B_020_2016*	
Height of Buildings Map HOB_013E HOB_014B	6380_COM_HOB_013E_020_2016* 6380_COM_HOB_014B_020_2016*	
Acoustic Controls Map	6380_COM_CL1_013E_020_2016*	

Note: The Map Sheet Identifiers will be updated with dates when the sheets are prepared. These map sheets may need to be updated prior to finalisation, to incorporate separate amendments that may have commenced since the map sheets were prepared. Such changes have no significance to this Planning Proposal.

Appendix C – Site Identification Maps

Where printed, the Site Identification Maps could follow this page.

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

Site Identification Map name	Sheet Nos	Item No (Appendix C)

Appendix D – Map Cover Sheet

The Map Cover Sheet is a part of the submission of the draft LEP for formal approval by the Minister for Planning or delegate.

It will not be prepared until that stage.

Where printed, the Map Cover Sheet could follow this page, just as the draft map sheets to be adopted could follow the introductory page for **Appendix E**.

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

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

Appendix E – Map Sheets to be adopted

Where printed, the relevant Map Sheets submitted for adoption could follow this page.

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

The map sheets to be adopted are listed in the Map Cover Sheet (see **Appendix D**) and in **Appendix B** - Part B Changes to Map Sheets.