



PLANNING PROPOSAL

Hawks Nest Village Centre and other Rezoning Opportunities

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1. Introduction

This Planning Proposal outlines proposed amendments to *Great Lakes Local Environmental 2014* as it relates to the zoning of identified land within Hawks Nest.

This draft Planning Proposal will have the effect of rezoning a portion of B1 Neighbourhood Centre Zoned land to R3 Medium Density Residential Zone and E2 Environmental Conservation Zone. It will also rezone a portion of beachfront land currently zoned R3 Medium Density Residential Zone to B4 Mixed Use Zone, and make multi-dwelling housing permissible with consent within this proposed B4 Mixed Use Zone.

A site specific clause is proposed for the proposed beachfront B4 Mixed Use Zone, and inclusion of existing Clause 7.9 – Protection of Wildlife Corridors to relevant areas in the existing B1 Neighbourhood Centre Zoned land, see Attachment 5.

These amendments are proposed in response to a review of the existing business needs in Hawks Nest and after looking more broadly at the longer term needs of the community. They have also drawn upon community engagement on the revitalisation of the existing Hawks Nest commercial area.

The amendments are consistent with local and regional strategic plans for the Tea Gardens/ Hawks Nest area.

Site Description

The subject site consists of 'Area A' and 'Area B' described in Figure 1. An aerial view of the site is provided in Figure 2. Figure 3 indicates existing land use zoning under *Great Lakes Local Environmental 2014*.

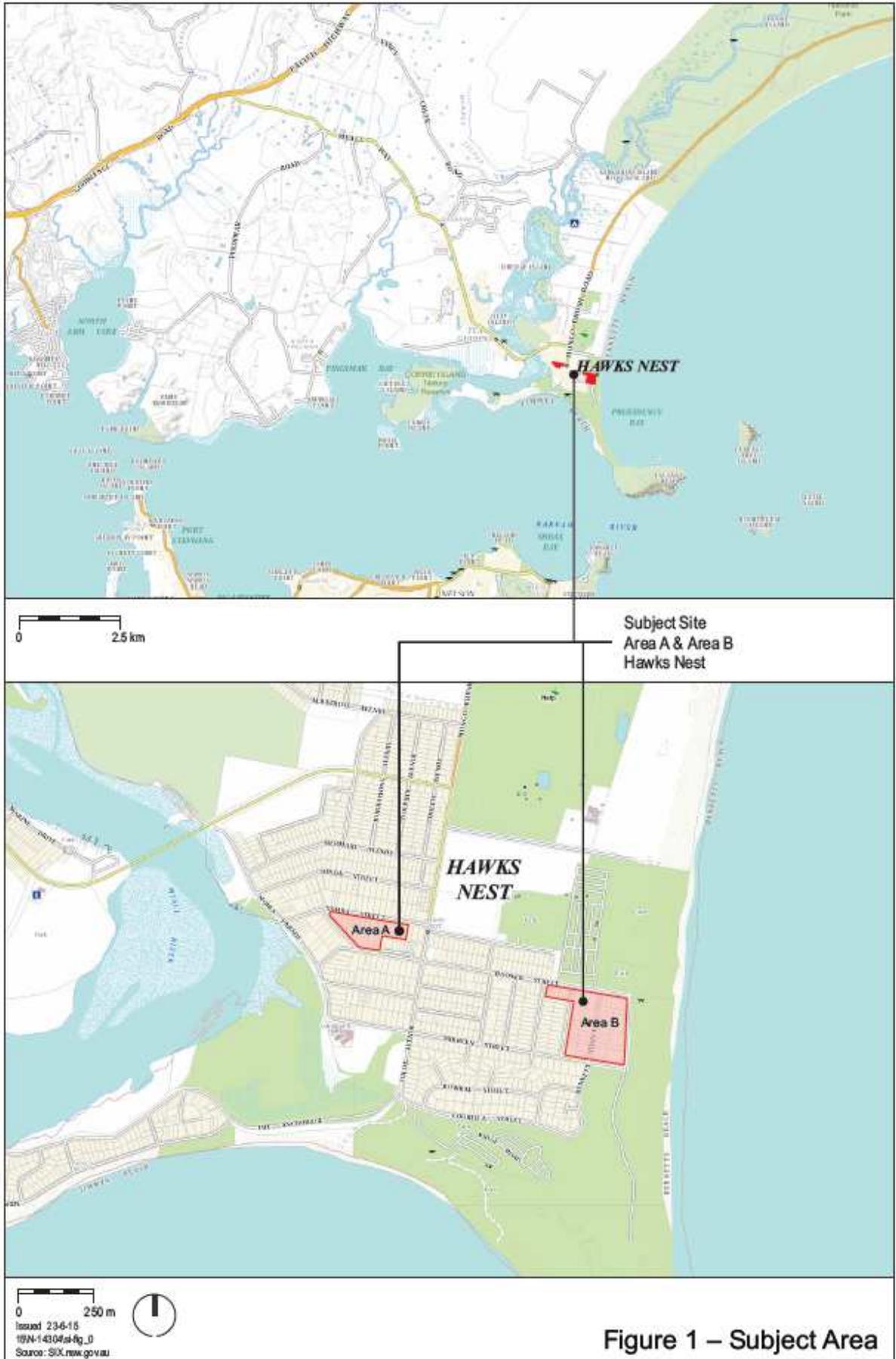


Figure 1 – Subject Area



Figure 2 – Aerial of Subject Area

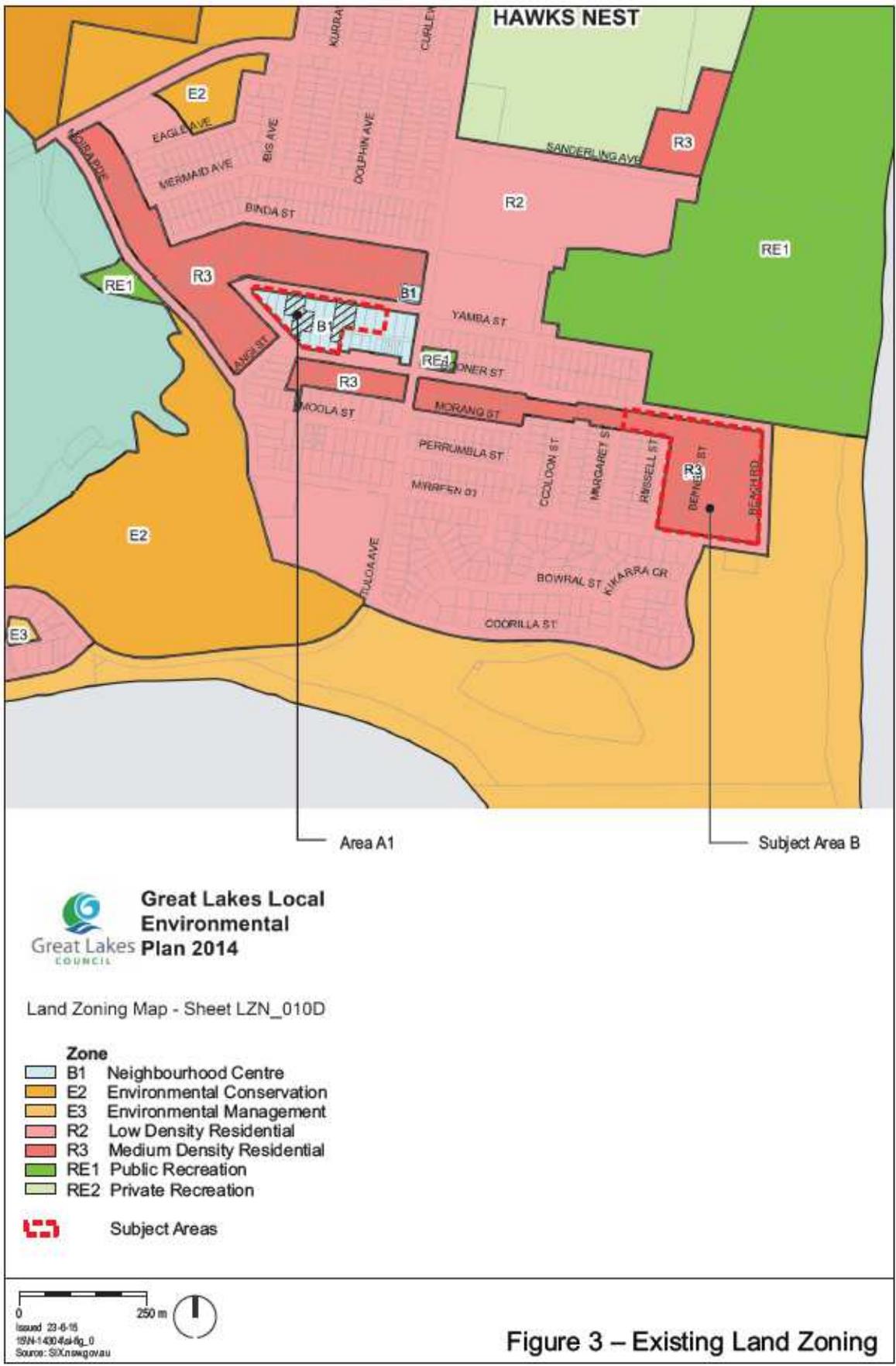


Figure 3 – Existing Land Zoning

Area A comprises 17 lots varying in size between Booner and Yamba Streets. The existing commercial centre adjoins Area A to the east and residential development in the form of 1 and 2 storey dwellings surrounds the site to the west, south and north. There are a number of existing dwellings (4), disused commercial buildings, vacant land and a Council owned car park within the area. Numerous trees grow in this area, and they provide an important feeding resource and movement corridor for the listed Hawks Nest and Tea Gardens Endangered Koala population.

Area B includes 38 lots varying in size between Beach Road, Booner Street, Russell Street and Mireen Street. Most buildings are dwelling houses and include detached 1 & 2 storey dwellings and 2 & 3 storey apartment buildings used mainly for holiday accommodation. There is a motel on the corner of Booner Street and Russell Street. A large caravan park, playground, surf club and Bennetts Beach adjoin Area B to the north, east and south, with residential development to the west and southwest.

Table 1: Areas affected by the Planning Proposal

Property description:	Full list of properties provided in Attachment 1.
Street address:	Area A - Yamba Street, Tuloa Avenue, and Booner Street Area B - Mirreen Street, Russell Street, Beach Road and Booner Street
Area of land affected by Planning Proposal*:	Area A – 1.74ha Area B – 4.96ha

**land areas are approximations only.*

2. Objectives, Intended Outcomes and Explanation of Provisions

2.1. Objectives and Intended Outcomes

The primary objectives of this planning proposal (PP) are:

- To utilise suitably located land, identified as Area A, that is surplus to business needs for well designed, affordable and low impact residential development which will support and enhance the remaining business area.
- To grow the community of Hawks Nest in a manageable and logical manner, providing additional permanent residential opportunities to support existing local business, infrastructure and services.
- To rejuvenate a non-functional commercial area and improve economic growth and local services.
- To protect and enhance the Hawks Nest and Tea Gardens Endangered Koala population including remnant vegetation, wildlife corridors and native flora and fauna habitats.
- To allow for tourism-support commercial activities to continue and grow where compatible with the land and adjoining activities.
- To broaden the range of land uses permitted in Area B so as to better meet the needs of locals and visitors and provide for more diverse economic opportunities.

The intended outcomes of the proposed amendments are:

- To permit medium density residential development on land adjoining a neighbourhood centre (Area A), and ensure that the new development provides for protection of the Hawks Nest and Tea Gardens Endangered Koala population and is compatible with the character of the area.
- To ensure that the range of permissible uses near the beachfront supports the needs of locals and visitors to Hawks Nest.

2.2. Explanation of Provisions

The objectives of this Planning Proposal (PP) will be achieved by amending *Great Lakes Local Environmental 2014*. This part should be read in conjunction with *Great Lakes Local Environmental 2014*.

Existing zoning and development standards

The **existing** provisions applying the site are as follows:

Area A - Zone B1 Neighbourhood Centre

- 12m maximum building height
- No floor space ratio
- 700sqm minimum lot size

Area B - Zone R3 Medium Density Residential

- 12m maximum building height
- 1:1 maximum floor space ratio
- 1,000sqm minimum lot size

Proposed zoning and development standards

Proposed standards which represent a change from **existing** standards are underlined:

Area A - Zone R3 Medium Density Residential Zone

- 12m maximum building height
- 1:1 maximum floor space ratio
- 1,000sqm minimum lot size

Area A - Zone E2 – Environmental Conservation Zone

- 8.5m maximum building height
- 0.4:1 maximum floor space ratio
- 40ha minimum lot size

A copy of the proposed zoning for Hawks Nest business area (to be refined through community consultations) is contained within Attachment 4.

Area B - Zone B4 Mixed Use Zone

- 12m maximum building height
- 1:1 maximum floor space ratio
- 450sqm minimum lot size

The minimum lot sizes for the proposed zones are consistent with lot sizes for similar zoned land in Hawks Nest and across the broader Great Lakes area.

A number of clauses in *Great Lakes Local Environmental 2014* apply to the subdivision of land. No change is proposed to the wording of any subdivision clauses.

A 1:1 floor space ratio in the proposed R3 Medium Density Residential zoned area is proposed to manage the scale of proposed dwellings. This acts to ensure that buildings are compatible with the environmental qualities and desired future urban character of the area. The proposed floor space ratio is consistent with ratios for similar R3 Medium Density Residential zoned land in the area.

A number of clauses in the *Great Lakes Local Environmental 2014* apply to the calculation of floor space ratios and allowances for taller buildings when lifts are provided for adaptable housing. No change is proposed to the wording of any relevant clause.

Other proposed amendments to Great Lakes Local Environmental Plan 2014

Area B - Zone B4 Mixed Use

- Permit multi-dwelling housing with consent
- Establish a maximum gross floor area for each commercial premises of 120sqm

Multi-dwelling housing is recommended to be added to the permitted land uses for the proposed B4 Mixed Use Zone in this location to reflect the current uses established in this area, and to encourage activities that bring more tourism activity to this part of Hawks Nest.

A specific local clause is proposed for Area B to ensure that the size and range of commercial uses in the proposed B4 Mixed Use Zone are consistent with the hierarchy of existing commercial centre/s in Hawks Nest and, in particular, to ensure they will not compete with the retained town centre business zone.

Koala Corridor Protection

It is proposed that existing 'Clause 7.9 Protection of Wildlife Corridors at Pacific Palms' in *Great Lakes Local Environmental 2014* will be applied to those parts of Area A where core Koala Habitat and/or movement areas are known to exist. Refer to Attachment 5 for indicative areas where clause 7.9 will be applied. This area may be refined during the community engagement process.

The existing protection of wildlife corridors clause as contained within *Great Lakes Local Environmental 2014* is as follows:

Clause 7.9 Protection of Wildlife Corridors

(1) The objective of this clause is to ensure that proper regard is given to wildlife corridors in carrying out development on land to which this clause applies.

(2) This clause applies to land identified as "Protection Corridor" on the Protection of Wildlife Corridors Map.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) any wildlife corridors will be maintained (or regenerated where necessary) to ensure their continued protection, and

(b) the development will not negatively impact on any wildlife corridor (whether directly or indirectly).

Great Lakes Local Environmental 2014 will be amended by adding those parts of Area A where Core Koala Habitat and/or Movement Areas are known to occur (Attachment 5) to the existing 'Protection of Wildlife Corridors Map'.

3. Justification

3.1. Need for the Planning Proposal

Is the Planning Proposal a result of any strategic study or report?

Yes.

The *Tea Gardens Hawks Nest Conservation and Development Strategy* (2003) (TGHN CDS) reported business zone vacancies, retail competition, biodiversity conservation and an aging population in Hawks Nest. The Strategy identified as a priority action, a retail study to examine retail trading in the Tea Gardens/Hawks Nest study area and the rationalisation of retail land use controls.

As a follow on from the TGHN CDS, the *Hawks Nest 3(A) Business Zone Review and Strategy* (Attachment 8) by Andrews Neil (2004) assessed the retail, parking and conservation needs of the business zone and recommended conservation and rezoning provisions.

Hawks Nest Town Centre Review

Consultants, City Plan Strategy and Development & Place Partners were engaged by Council in July 2014 to review the previous reports and prepare a master plan for the Hawks Nest Town Centre to reflect the findings and recommendations of the TGHN CDS & Andrews Neil Report.

The review had the following specific aims:

- Confirm whether there is a surplus of land zoned B1 Neighbourhood Centre in Hawks Nest
- Determine the appropriate zone for any surplus B1 Neighbourhood Centre zoned land
- Identify planning solutions to ensure the koala movement corridors are protected
- Determine car parking requirements for the town centre
- Investigate commercial rezoning opportunities to provide for future development and community needs, including beachfront or riverfront locations and potential for a marina site.

The project methodology included:

- Land Use Inventory of existing business zoned land
- Analysis of population and market factors affecting the business area
- Review of existing planning controls
- Assessment of car parking requirements based on existing and future business needs
- Review of Koala habitat mapping
- Community engagement (letterbox drop, community workshop and newsletter)

- Preparation of a master plan including a placemaking strategy

The investigations identified the following key findings:

1. Excess supply of business zoned land in Hawks Nest
2. Excess provision of off-street car parking in the business zone
3. Opportunity for boutique businesses optimising the natural assets of the area (i.e. the beachfront and waterfront), rather than compete with the 'convenience' shopping experience offered by the nearby shopping centres.
4. Demography of Hawks Nest limits the business growth with fixed incomes and transient population. More permanent residents are required to improve local business success.
5. Local koala population is both a tourist opportunity and a development constraint. Development must ensure protection of the identified key koala habitat.
6. Current section 94 contributions for local car parking are in excess of requirements and should be reviewed.

The key recommendations from the study were presented to Council on 14 July 2015 where it resolved to*:

1. Proceed with preparation of a planning proposal for the rezoning of part of the existing B1 Neighbourhood Centre zone to R3 Medium Density Residential Zone and E2 – Environmental Conservation Zone and local clauses for the land proposed for rezoning from R3 – Medium Density Residential Zone to B4 Mixed Use Zone near the beachfront.
2. Prepare a Development Control Plan for the proposed B4 Mixed Use Zone and R3 – Medium Density Residential Zone/E2 - Environmental Conservation Zone to guide development in these areas, protect koala habitat and to encourage development that attracts permanent residents to support the local business zone.
3. Amend clause 7.9 (Protection of Wildlife Corridors) so that it applies to the land that contains trees bounded by Boona, Yamba and Tuloa streets (currently B1 Neighbourhood Centre Zone) in the Hawks Nest Town Centre (see Attachment 5).

*For the full terms of the Council report and resolution refer to Attachment 6.

Community Consultation

As part of the Hawks Nest Town Centre Review, consultants City Plan Services and Place Partners Place Making consultancy undertook considerable engagement with the local community. Consultation with landowners, residents, business and service providers was undertaken to identify the opportunities and challenges for the future development and

renewal of commercial activities in Hawks Nest. Over 330 engagement contacts were made to an online survey, community workshops and stakeholder interviews.

Further community engagement was undertaken with the preparation and distribution of the Hawks Nest Business Revitalisation Update Brochure. The brochure contained information about the progress of the Hawks Town Centre Review, the outcomes of community consultation and provided ideas about how to get involved in revitalising the town centre.

The findings from the community consultations were brought together in the Integrated Engagement Report, see Attachment 7. This report has been used to inform the PP.

Proposed B4 – Mixed Use Zone (Area B)

Based on feedback from the community during the consultation period for the Hawks Nest Town Centre Review a B4 Mixed Use Zone close to Bennetts Beach (refer to Figure 3, Area B) is proposed. This area has been proposed to provide an opportunity for specialised commercial tourism in an area considered to be well suited to this type of development. Attachment 9 provides an aerial view of the proposed B4 Mixed Use Zone including surrounding land uses.

The purpose of the proposed B4 – Mixed Use Zone would not be to complete with the existing Hawks Nest business centre but to provide an opportunity for low-scale complimentary boutique tourist type development. By facilitating this type of tourist based commercial activity there is an opportunity to attract visitors to the area and activate the Hawks Nest beach front.

The location of the proposed B4 – Mixed Use Zone has been put forth in response to the existing and potential commercial opportunities in this area. It is also based on community feedback for Council to allow flexibility close to the beach to facilitate suitable business opportunities.

Extending along Beach Street and continuing along west along Booner Street up until Margaret Street, the proposed B4 Mixed Use Zone will be located adjacent to the Hawks Nest Caravan Park, surf club, Bennetts Beach and playground and incorporate an existing motel on the corner of Booner and Russell Streets. It is anticipated that the proposed B4 Mixed Use Zone will build upon the patronage associated with these existing activity nodes and provide further tourist related business opportunities.

The existing built form within the proposed B4 – Mixed Use Zone is predominately 1 & 2 storey dwellings and 2 & 3 storey apartment buildings used for holiday accommodation. A vacant parcel of land with an area of approximately 3 000sqm is located to the south of the existing hotel on Booner and Russell Streets and provides an opportunity for tourist type development.

The proposed B4 – Mixed Use Zone represents Council's mid to long term strategic plan for the Hawks Nest beach area. By building on existing infrastructure and taking advantage of the

intrinsic natural values of the area the proposed B4 Mixed Use Zone will facilitate tourist related business opportunities as market demand dictates, in turn creating a point of difference for Hawks Nest.

Clause 7.9 (Protection of Wildlife Corridors)

It is proposed to modify existing Clause 7.9 of *Great Lakes Local Environmental 2014* to include an area of identified Koala Habitat Corridor in Hawks Nest. The location of the area to be included is depicted in Attachment 5.

As requested by Department of Planning & Environment (DP&E), below is justification for the use of clause 7.9 in Hawks Nest. Responses to questions raised by DP&E are provided below.

What is the current situation?

In 2004, the *Hawks Nest 3(A) Business Zone Review and Strategy* by Andrews Neil identified Core Koala Habitat and Movement Areas in Hawks Nest for the Tea Gardens/Hawks Nest Endangered Koala Population see Attachment 8.

The majority of vegetation that forms part of the key movement corridor for koalas in Hawks Nest is not 'core' koala habitat pursuant to State Environmental Planning Policy 44 Koala Habitat Protection (SEPP44) and therefore is not protected under the State Planning Policy.

The koala corridor extends over existing residential and business areas, as well as some environmental protection land. Most of the residential land is developed however, koala habitat trees and a movement corridors have been identified over some of this land.

Investigations into the business area of Hawks Nest have recommended that some undeveloped commercially zoned land be rezoned for residential purposes, and some for environmental protection purposes (particularly for the protection of the koala habitat and movement corridor) see Attachment 4..

Why does Council want to use this Clause?

Clause 7.9 was introduced into *Great Lakes Local Environmental 2014* for a priority wildlife corridor at Pacific Palms. It has been operating effectively in this area to ensure that proper regard is given to mapped wildlife corridors during the assessment of development applications.

Within the existing Hawks Nest B1 Neighbourhood Centre Zone there are numerous individual trees and one clump of trees that, from a practical point of view, have not been included in the land proposed to be zoned E2 Environmental Conservation. These, however, all form part of the Koala habitat and should be given some statutory recognition under *Great Lakes Local Environmental 2014*.

It is therefore proposed to extend the use of this local clause to those parts of Area A where Core Koala Habitat and/or Movement Areas are known to exist. Refer to Attachment 5.

What existing provisions are there in Hawks Nest for the protection of trees?

- *Threatened Species Conservation Act 1995 (TSC Act)*

The Hawks Nest Koala population is listed as endangered under the *Threatened Species Conservation Act 1995* (TSC Act). A section 91 licence from Office of Environment and Heritage (OEH) is required to damage habitat of a threatened population being:

“habitat means an area or areas occupied, or periodically or occasionally occupied, by a species, population or ecological community and includes any biotic or abiotic component.”

Under the Koala Recovery Plan prepared for the endangered population, a number of objectives and actions identify government agencies and the community as having responsibility for management and protection of Koala habitat. A key objective action for Council is set out below.

Objective 4: To incorporate Koala conservation into planning processes

Performance Criterion: Koala conservation is effectively incorporated into Great Lakes Council’s planning processes; Koala habitat is protected with appropriate environmental zoning in the Great Lakes Local Environmental Plan (now Great Lakes Local Environmental 2014); preparation of a Kola Plan of Management or a Kola Plan of Management is considered and underway if necessary.

- *Great Lakes Local Environmental 2014– E2 Environmental Conservation zone*

Part of the movement corridor for the Hawks Nest and Tea Gardens Endangered Koala Population is zoned/proposed to be zoned E2 Environmental Conservation. The E2 zone is the highest level of private environmental zoning within the standard instrument Local Environmental Plan, however a range of uses including dwellings houses and eco-tourist facilities are permissible with consent. E2 – Environmental Conservation zoning alone would not ensure protection of the movement corridor and associated habitat trees.

- *Great Lakes Local Environmental 2014 – cl 5.9 Preservation of trees or vegetation*

Requires development consent to harm a species of tree or other vegetation prescribed in a development control plan (DCP).

- *Development Control Plan 2014 Section 12.5 requires:*

- development consent to harm ‘koala feed and habitat trees within those areas identified in Tea Gardens and Hawks Nest’.
- permanent protection under s88B for ‘primary Koala food trees’, “habitat” and “home range” secondary food or significant shelter trees.

- *Development Control Plan 2014 Section 12.2- Requirements for consent:*

Requires development consent to harm any tree within the mapped tree preservation areas (i.e. all of Hawks Nest). The Development Control Plan relates to the removal of individual trees and does not provide for a strategic assessment of the overall impact of a development, including opportunities for offsetting and environmental enhancement.

Summary of Existing Provisions

1. The highest level of conservation zoning apply to part of the corridor, however a range of development types are permitted in the zone.
2. Damage to any tree in Hawks Nest requires development consent from Council.
3. Damage to Koala habitat trees also requires a Section 91 licence from OEH.
4. Damage to Koala trees in Hawks Nest requires development consent.
5. Development areas must permanently protect Koala trees with a s88B covenant

Why are the existing provisions insufficient? Why Council's TPO would not be sufficient in providing an adequate level of protection?

Council's existing Tree Preservation Order (TPO) under Clause 5.9 of the *Great Lakes Local Environmental 2014* does not prohibit tree clearing, but requires development consent for harm to trees identified in Council's Development Control Plan 2014. *Great Lakes Local Environmental 2014* does not specify the assessment criteria.

This tree provisions relate to the removal of individual trees and does not provide for a strategic assessment of the overall impact of a development, including opportunities for offsetting and environmental enhancement.

The Development Control Plan 2014 (section 12.5) is overly complicated, inconsistent and ineffective in ensuring important trees are retained. Technical references and mapping required for assessment and compliance with the section are not available at Council. Trees identified for protection (Primary Koala food trees, habitat, home range, secondary food or significant shelter trees) are not adequately defined, requiring assessment by applicants on a case by case basis.

The Development Control Plan 2014 does not apply to trees less than 3m high or less than 300mm diameter. Therefore, important components of the corridor are not protected. The assemblage of trees is not considered in assessing an application– the combination of trees, shrubs, grasses and obstacles is an important factor in the suitability of an area as a Koala movement corridor. The significance of individual trees is not sufficient to protect the corridor function.

The local Koala movement corridor and habitat area has not been formally defined in the Endangered Population listing and therefore there is uncertainty about the application of section 91 of the TSC Act to some areas in Hawks Nest.

A measure of protection would be provided to the Koala habitat should Council acquire land, however the majority of the corridor is privately owned and occupied.

Future application of the Clause

There are broader areas across Hawks Nest outside of the current B1 Neighbourhood Centre Zone which form important Koala habitat. These areas have been formally identified in the *Hawks Nest 3A Business Zone Review & Strategy* (Andrews Neil, 2004). See Attachment 10 for an overview of the existing koala corridor and movement areas.

It is apparent from the Movement Corridors map contained within the Andrews Neil report that the Hawks Nest town centre forms a crucial part of the Koala habitat corridor. To ensure a strategic approach is taken to the protection of the Hawks Nest/Tea Gardens Endangered Koala Population, eventually, Councils intention is to apply clause 7.9 over the Hawks Nest town centre in accordance with the Movement Corridors map contained within the Andrews Neil report.

However, before this can occur Council will need to refine the maps to ensure a high degree of accuracy. A separate planning proposal will be prepared and publicly exhibited for the broader application of the fauna corridor protection clause across Hawks Nest

Other relevant Strategies

There are a number of local strategies applying to the Hawks Nest area, including:

- Tea Gardens/ Hawks Nest Housing Strategy
- Tea Gardens/ Hawks Nest Community Plan

The findings and recommendations of these strategies have been reaffirmed with the recent review of the business area. The proposed zoning amendments respond to the visions and strategies outlined in these local plans, and support the revitalisation of Hawks Nest whilst conserving its significant environmental character.

Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amendments to *Great Lakes Local Environmental 2014* are proposed as the best means of achieving the outcomes for the site, as proposed residential (Area A) and proposed specialised tourism commercial (Area B) development cannot be achieved within the current zonings.

Accordingly, this PP is considered the most appropriate way to achieve the objectives stated in Part 1 of this PP.

3.2. Relationship to Strategic Planning Framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional strategy?

The Mid North Coast Regional Strategy (MNCRS) is the strategy applicable to the Mid North Coast region, which includes the subject site. The subject site is identified as being in the town centre of Tea Gardens/ Hawks Nest.

The PP is consistent with the following Actions contained within the MNCRS:

Settlement and Housing Actions:

"...local environmental plans ...will....contain the spread of urban development, efficiently utilise existing services and infrastructure, and protect areas of high conservation value" (p 19).

"Councils will plan for a range of housing types of appropriate density, location and suitability that are capable of adapting and responding to the ageing of the population."(p 20).

"Councils will consider a range of affordable housing strategies, including forms of low cost housing, suitable zonings and development controls to improve housing affordability and choice..." (p 20).

The PP is consistent with the Settlement and Housing Actions above as it will result in a range of housing types at suitable densities that are well located to existing services and infrastructure.

Settlement and Design Character Actions:

"Commercial centres in villages will be multifunctional, mixed use areas (including residential) catering for diverse community needs." (p 23).

The PP is consistent with the Settlement and Design Character Action above as it will create an opportunity for residential development in close proximity to an existing business area. It will also create a Mixed Use Zone in a location which is well located to existing infrastructure and services. Multi-dwelling houses will be permitted in the proposed Mixed Use Zone, which will promote a multifunctional area facilitating shop-top housing to cater for community needs.

Environment and natural resources Actions:

"Local environmental plans will protect and zone land with high environmental, vegetation, habitat, riparian, aquatic, coastal or corridor values for environmental protection."

"Local environmental plans will include provisions to encourage habitat and corridor establishment in future zoning of land with environmental and rural values"

The PP is consistent with the Environmental and Natural Resource Actions above as it proposes to rezone land of high conservation value which has been identified as a habitat and movement corridor for an endangered population, to environmental protection.

The PP is also consistent with the broad aims of the MNCS to “...Protect high value environments including threatened species, vegetation communities and habitat corridors...” (p11).

It is considered that the PP is consistent with the aims and objectives of the MNCRS.

Is the planning proposal consistent with the local council’s local strategic plan?

Council’s Community Strategic Plan 2010-2030 (Great Lakes 2030) is the community's plan for the future. It represents the long term aspirations for the area and encompasses an overarching vision developed by the community and objectives and strategies to achieve community goals. Great Lakes 2030 identifies a number of Key Directions. The PP is consistent with the following directions:

Key Direction 1: Our Environment.

The objectives of this direction are to protect and maintain the natural environment so that it is healthy, diverse and to ensure that development is sensitive to the environment.

The PP is consistent with this Key Direction as it will rezone areas of significant habitat utilised by the Hawks Nest and Tea Gardens Endangered Koala Population for environmental protection. The PP will also apply existing clause 7.9 (Protection of Wildlife Corridors) in *Great Lakes Local Environmental 2014* to significant koala habitat areas as identified in Attachment 5. A development control plan (DCP) will also be prepared for the proposed B4 Mixed Use Zone and R3 – Medium Density Residential Zone/E2 - Environmental Conservation Zone which will include provisions to protect koalas and their habitat in Hawks Nest.

Key Direction 2: Strong Local Economies

Objectives of this direction are to promote Great Lakes as an attractive area for residents and visitors which encourages a supportive business environment, job opportunities and that provides transport and infrastructure that meets future needs.

The PP will encourage businesses to Hawks Nest through the application of the proposed B4 – Mixed Use Zone. It is anticipated that the B4 – Mixed Use Zone will increase opportunities for tourism-support commercial activities in this area also providing local jobs.

The reduction in the existing B1 – Neighbourhood Centre and associated rezoning for residential development will aid in revitalising the dilapidated Hawks Nest Town Centre and create a more attractive public realm.

The PP is consistent with this key direction.

Key Direction 3: Vibrant and Connected Communities

The objectives of this direction encourage the provision of the 'right places and spaces', supporting positive and safe communities which promote education, sustainable growth and connectivity.

The PP promotes sustainable growth in locations suitable for residential development in an area which is located in close proximity to existing infrastructure and community facilities.

The PP is consistent with this key direction.

Key Direction 4: Local Leadership

The objectives of this direction are to deliver council services which are effective and efficient, to strengthen community participation and to represent the community's interest through local leadership.

The PP is consistent with this direction as it will deliver logical planning outcomes which have come out of community consultations.

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

Two State Environmental Planning Policies (SEPPs) are relevant to this Planning Proposal. They are addressed below. The Proposal is consistent with the objectives and provision of these SEPPs.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of koala habitat areas in order to maintain the viability of koala populations.

Koala habitats have been identified in Area A. Whilst the study area provides important shelter, foraging and feeding habitat as part of the movement corridor for the local Koala population, it does not constitute 'core' or 'potential core' koala habitat under the SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

This SEPP aims to promote the remediation of contaminated land for the purpose of reducing risks to people and the environment. Relevant to this Proposal, Clause 6 of the SEPP provides that the Council must not allow the rezoning of land for residential or environmental conservation purposes unless:

- a. *the planning authority has considered whether the land is contaminated, and*

- b. *if the land is contaminated, the planning authority is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes for which land in the zone concerned is permitted to be used, and*
- c. *if the land requires remediation to be made suitable for any purpose for which land in that zone is permitted to be used, the planning authority is satisfied that the land will be so remediated before the land is used for that purpose.*

The sites proposed for rezoning have been (and continue to be) used for residential and commercial activities. It is considered unlikely that any of the subject sites are affected by contamination.

It is highly unlikely that the proposed objectives and proposed amendments would need to be revised following further investigation into site contamination and that any remediation required would be capable of ensuring the site is suitable for residential and recreational use.

This approach is consistent with the requirements of SEPP 55 – Remediation of land.

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

Section 117 of the Act enables the Minister to issue directions regarding the content of Local Environmental Plans, by outlining objectives and policies that must be taken into consideration and achieved. The Directions relevant to this Proposal are addressed in Table 2 below.

Table 2: Assessment of the proposal against relevant s.117 Directions

<p><u>1.1 Business and Industrial Zones</u></p> <p>This direction aims to protect employment land and encourage employment growth in suitable areas.</p>	<p>This Direction applies as the PP proposes changes to existing business zoning, namely by:</p> <ul style="list-style-type: none"> • Reducing the amount of B1 Neighbourhood Centre (Area A) in Hawks Nest and rezoning it to a mix of R3 – Medium Density Residential and E2 – Environmental Conservation; and • Creating an additional business zone (B4 – Mixed Use Zone) in the vicinity of Bennetts Beach (Area B). <p>While the changing of business zoned land in Area A is inconsistent with this Direction because it reduces the amount of business zoned land, the subject land is considered excessive to Hawks Nest current and future needs in accordance with findings from the <i>Hawks Nest 3A Business Zone Review and Strategy (2003)</i>. Current population figures and land use audits reinforce this situation.</p> <p>Based on the permanent resident population of Hawks Nest, there is demand for approximately 450m² of gross retail floor space in a neighbourhood centre. This would increase to around 1,200m² in</p>
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peak season if more visitors shopped locally.

There is, however, over 2,800m² of built floor space within the existing Hawks Nest town centre. The oversupply of floor space is reflected in the high vacancy rate. In August 2014 only 13 of 25 shops were tenanted.

Much of the existing zoned commercial land (in total 2.6ha) is undeveloped for commercial purposes. If all the existing zoned land was occupied, there is potential for up to 26,000m² of retail floor space.

The change from B1 – Neighbourhood Centre to R3 – Medium Density Residential and E2 – Environmental Conservation over part of the existing business zone is considered desirable as it will encourage consolidation of the existing B1 Neighbourhood Centre and ensure that new and existing businesses are concentrated in one central, defined locality as opposed to the existing fragmented situation.

Further, by increasing the dwelling density adjoining the Hawks Nest B1 Neighbourhood Centre Zone, there is an opportunity to attract a more permanent residential population to this area. The flow on effects would support existing local businesses through increased patronage and activation of the area.

Increasing the permanent residential population in Hawks Nest was one of the main issues raised by the community during consultations for the Hawks Nest Town Centre Review. This is summarised and reflected in the Integrated Engagement Strategy (Attachment 7).

It is considered that any net loss in business zone by reducing the size of the existing B1 Neighbourhood Centre will be offset by other business opportunities provided by the proposed B4 – Mixed Use Zone (Area B). While it is not the intent of the proposed B4 – Mixed Use Zone to compete with the ‘convenience’ shopping experience offered by nearby shopping centres it will provide another opportunity for boutique tourist related businesses optimising the natural assets of the area (i.e. the beachfront).

The location of the proposed B4 – Mixed Use Zone (Figure 3, Area B) has been put forth in response to the existing and potential commercial opportunities in this area. It is also based on community feedback for Council to allow flexibility close to the beach to facilitate suitable business opportunities.

Extending along Beach Street and continuing along west along Booner Street up until Margaret Street the proposed B4 Mixed Use Zone will be located adjacent to the Hawks Nest Caravan Park, surf club, Bennetts Beach and playground and incorporate an existing motel on the corner of Booner and Russell Streets. It is anticipated that the proposed B4 Mixed Use Zone will build upon the patronage associated with these existing activity nodes and provide further tourist related business opportunities for locals and visitors.

The inconsistency with the Direction is considered to be minor and consistent with recommendations from the *Hawks Nest 3A Business Zone Review and Strategy (2003)*.

<p><u>2.2 Coastal Protection</u></p> <p>The object of this Direction is to implement the principles of the NSW Coastal Policy.</p>	<p>This Direction is relevant as both Area A and B are located within the coastal zone.</p> <p>The PP includes provisions that give effect to the objectives of this Direction and are consistent with the following:</p> <ul style="list-style-type: none"> • 2.2(4)(a) - provisions to give effect to the NSW Coastal Policy are included in the Great Lakes Local Environmental Plan 2014, and will apply to the land in this Proposal. • 2.2(4)(b) - a Development Control Plan will be prepared for Area A and include provisions relating to environmental protection and reinforce the existing dwelling structure that is consistent with the Coastal Design Guidelines 2003. The proposal consolidates and reinforces the existing commercial centre. • 2.2(4)(c) – The site does not include any coastline, and there is no development or activities proposed in the coastal zone of this site. <p>This PP is consistent with this Direction.</p>
<p><u>3.1 Residential Zones</u></p> <p>This Direction aims to encourage a range of housing that efficient utilised land and services with minimal impact on the natural environment and its resources.</p>	<p>The PP includes objectives and provisions to provide for higher density housing in a suitable location that can be serviced by existing infrastructure. The rezoning will allow a greater variety of housing development to occur on individual lots, which will help to increase patronage and support local businesses.</p> <p>This PP is consistent with this Direction.</p>
<p><u>3.3 Home Occupations</u></p>	<p>Home occupations will be permitted without consent within both the proposed R3 Medium Density Residential and B4 Mixed Use Zones which does not represent a change to the existing situation.</p> <p>This PP is consistent with this Direction</p>
<p><u>3.4 Integrating Land Use and Transport</u></p> <p>The purpose of this Direction is to ensure that development achieves objectives with regard to the improvement of access by walking, public transport and other means that reduce dependence on private car travel. Relevantly, a draft LEP should locate urban zones and</p>	<p>Development associated with the subject site will aim to implement the objectives of the relevant guidelines through detailed site design and management (e.g. street networks will allow permeability for buses and pedestrians etc). These principles are anticipated to be implemented via a future development control plan for Area A. Council’s local strategy has considered a hierarchy of centres and development precincts that gives effect to the principles of integration of land use and transport.</p> <p>As the Proposal is consistent with the local strategy, this PP is consistent with this Direction.</p>

<p>include provisions that give effect to listed guidelines and policies.</p>	
<p><u>4.1 Acid Sulphate Soils</u> The purpose of the Direction is to avoid significant adverse environmental impact from the use of land that has a probability of containing acid sulphate soils as shown on the <i>Acid Sulphate Soils Planning Maps</i> held by the Department of Planning.</p>	<p>This Direction applies as both sites have been mapped as containing class 4 acid sulphate soils. The model provisions for acid sulphate soils are included in <i>Great Lakes Local Environmental Plan 2014</i>, which outlines that consent is required for certain earthworks or watertable-lowering activities. An acid sulphate soils management plan must be prepared for these developments at the development application stage.</p> <p>Given that there is unlikely to be deep earthworks on the sites within the Class 4 area, or watertable-lowering activities and that the model provisions are included in <i>Great Lakes Local Environmental Plan 2014</i>, it is considered unnecessary to prepare an acid sulphate soil study for this site at this point, and that this inconsistency with clause 6 of this Direction is of minor significance.</p>
<p><u>4.3 Flood Prone Land</u> The purpose of this Direction is to ensure the provisions of the LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential of the flood impacts both on the subject land and surrounding areas.</p>	<p>The Direction applies as an area of the site is identified as flood prone land, (part of Area A only) being shown in the flood planning area in <i>Great Lakes Local Environmental 2014</i> (refer to Attachment 2 Flood Planning Area Map).</p> <p>Only a small section of Area A has been identified as flood prone land. This land already supports existing business development.</p> <p>The proposed change from business to residential is considered to be of minor significance as it relates to flooding.</p> <p>Any application for residential development will need to consider flooding at the development application stage.</p> <p>The inconsistencies with this Direction are considered to be of minor significance.</p>
<p><u>4.4 Planning for Bushfire Protection</u> This Direction provides requirements to be fulfilled for PPs that affect land mapped as bushfire prone land. These requirements include consultation with the Commissioner of the NSW Rural Fire Service; the incorporation of an Asset Protection Zone and the introduction of controls on the placement of combustible materials in Inner Protection</p>	<p>A small part of Area B is identified as a “Buffer” to bushfire prone land see Attachment 3. In accordance with this Direction, consultation with the Commissioner of the NSW Rural Fire Service will take place after a Gateway determination, and any matters raised by the Commissioner will be considered and incorporated into the PP.</p>

Areas.	
<p><u>5.1 Implementation of Regional Strategies</u></p> <p>This Direction provides that a draft LEP should be consistent with the Mid North Coast Regional Strategy.</p>	<p>The proposal is consistent with the provisions of the MNCRS, as discussed throughout this PP (refer to Section 3, consistency with regional strategy), and is therefore consistent with this Direction.</p>

3.3. Environmental, Social and Economic Impact

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 Hawks Nest and Tea Gardens Koala Population is listed as an Endangered Population under the *Threatened Species Conservation Act 1995*.

A number of studies have been undertaken on the subject site in recent years including:

- Tea Gardens Hawks Nest Endangered Koala Population Determination (NSW Scientific Committee, 1999);
- Koala Plan of Management (Payne, 2001);
- Hawks Nest and Tea Gardens Endangered Koala Population Recovery Plan (Department of Environment and Conservation, July 2003);
- Hawks Nest 3(A) Business Zone Review and Strategy (Andrews Neil, 2004);
- Species Impact Statement and various ecological assessments associated with Lot 1 DP546852 Kingfisher Avenue, Hawks Nest;
- Land and Environment Court Expert Witness Statement of Evidence dated 22nd October 2008 (Attachment 2); and
- Myall Koala and Environment Support Group (a community organisation that has monitored sightings of local koalas since 1989).

A well-documented koala corridor exists through Area A and regular sightings are recorded by the Myall Koala and Environment Support Group. This PP aims to protect this corridor by rezoning certain land within Area A to E2 – Environmental Conservation Zone and applying existing Clause 7.9 (Protection of Wildlife Corridors) of *Great Lakes Local Environmental 2014* to land within Area A that contains known koala movement corridors and habitat trees.

The proposed E2 – Environmental Conservation zoned land may be dedicated to Council under a Voluntary Planning Agreement (VPA). In this instance, a Plan of Management (PoM) would also be prepared for the land.

A Development Control Plan will be prepared for the rezoned residential area (Area A) to include measures such as vegetation management, road crossings and appropriate fencing to ensure Koala safe passage through the site etc.

Are there any other likely environmental, social or economic effects as a result of the planning proposal and how are they proposed to be managed?

Flooding within the site is influenced by Myall River to the west of Area A, with the higher parts of the site draining towards the lower, flatter central parts of the site in accordance with Attachment 2. The potential impacts of flooding will be addressed at the development application stage.

3.4. State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

It is considered that existing public infrastructure is adequate to meet the needs of the PP.

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

Relevant public authorities will be consulted following a Gateway determination in accordance with the guidelines for preparing planning proposals.

It is suggested that the following authorities be consulted:

- NSW Rural Fire Service
- Office of Environment and Heritage

The PP will be revised, if necessary to respond to the matters raised by the authorities.

4. Mapping

As outlined in **Part 2**, amendments are proposed to the following maps in *Great Lakes Local Environmental 2014*:

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

Other maps, figures and photographs are included in this PP to assist in the interpretation and understanding.

5. Community Consultation

Extensive community consultation has already been undertaken as part of the Hawks Nest Business Area Review in order to inform this PP. Engagement included:

- Letterbox drop
- Newspaper advertisement
- Website project page
- Online survey – 229 respondents
- Two community workshops – 100 attendees
- Stakeholder telephone interviews – Held with four key stakeholders
- Meeting with Hawks Nest Progress Association
- ‘Community Update’ Brochure

Community feedback included:

- Support for rationalising the existing business zoned land
- Support residential development for increased permanent population
- Support opportunity for boutique businesses optimising the natural assets of the area (i.e. the beachfront and waterfront), rather than compete with the ‘convenience’ shopping experience offered by the nearby shopping centres.
- Support protection of the identified key koala habitat.

A summary of the community engagement undertaken is including in the *Integrated Engagement Strategy* contained within Attachment 7.

The Gateway Determination will give direction on further community consultation required for this PP.

As a minimum, it is proposed to display the PP for at least 3 months to account for school and public holidays during this time, and to provide copies of all the relevant documents, site studies and maps that have been considered in the preparation of this PP.

All affected and adjoining landowners will be notified in writing of the display period, and wider notice will be made in print and electronic media (including Council's website). This would be the formal period for the purpose of making a written submission on the PP.

Information would be available in a variety of formats (hard copies, CDs, downloadable documents), and be available to view at community venues such as the Tea Gardens District Office and Council Administration Building, Forster.

It is not anticipated that a public hearing will be required in relation to this proposal, pursuant to section 56(2)(e) of the Act.

6. Project Timeline

In accordance with DP&E guidelines the following timeline is provided as an estimate to complete the usual tasks for the making of a local environmental plan.

Table 3: Estimated project timeline

TASK	RESPONSIBILITY	TIMEFRAME	DATE (approximate)
Lodgement of PP for Gateway Determination	Great Lakes Council	-	August 2015
Gateway Determination	Minister for Planning and Environment	6 – 8 weeks	October 2015
Consultation with public authorities	Great Lakes Council	1 month	November 2015
Public exhibition of amended PP	Great Lakes Council	3 months (to account for school and public holidays)	December 2015 to February 2016
Review of submissions and amendment to PP	Great Lakes Council	2 months	May 2016
Making of local environmental plan	Minister for Planning and Environment	6 – 8 weeks	July 2016

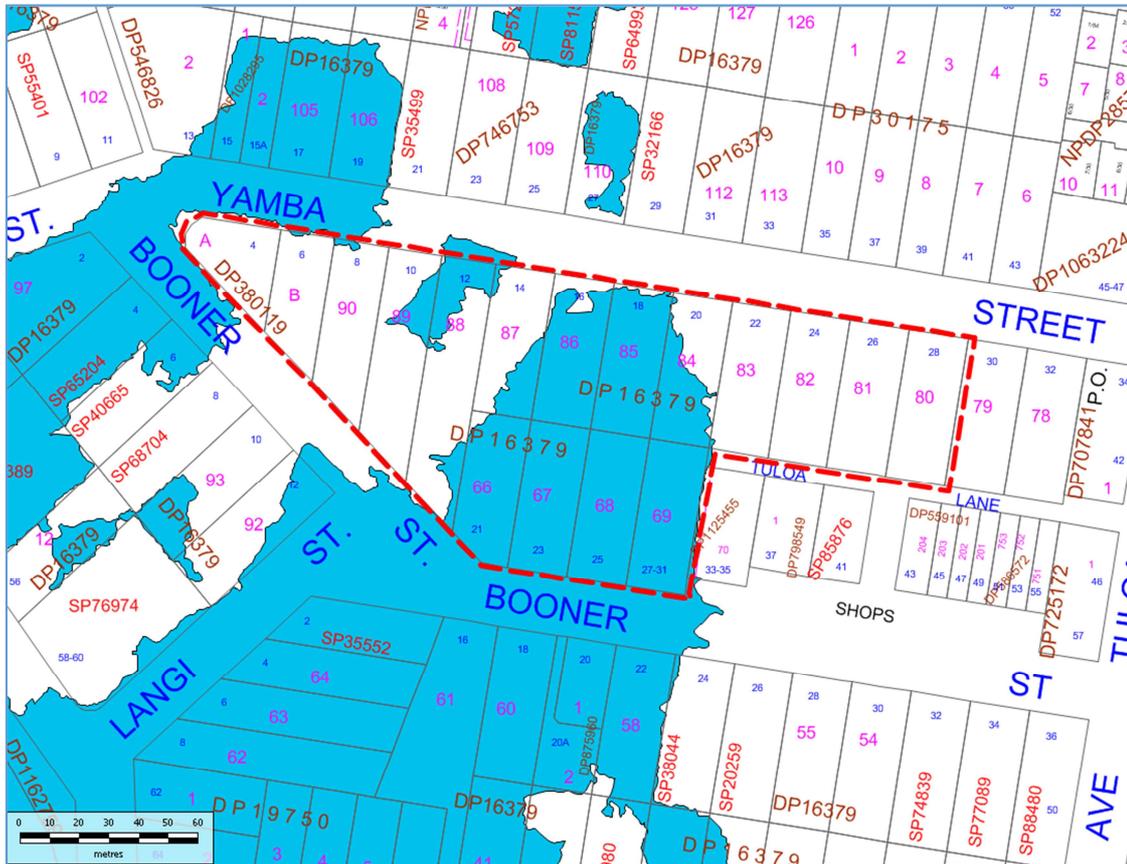
Attachment 1

Lot Description of areas affected by Planning Proposal

Area A	Lots A & B in DP380119, Lots 67 and 68 in DP1125455, Part Lots 66 and 69 in DP1125455, Lots 80 – 82, 85, 86 and 90 in DP16379 & Part Lots 87 and 89 in DP16379
Area B	SP34479, SP38529, SP22389, SP67542, SP48858, SP46669, SP42243, SP72893, SP38151, SP65045, SP82361, SP21057, SP55988, SP58396, SP54635, SP77721, SP19308, SP78343, SP39723, SP19308, SP18307, Lot 2 in DP1036383 Lot 1 in DP834977 Lots 2, 4, 17, 18, 23 – 25 & 27, 39, 41, 48 – 50 in DP18915, Lots 423 & 424 in DP519122 & Lot 1 in DP1045581.

Attachment 2

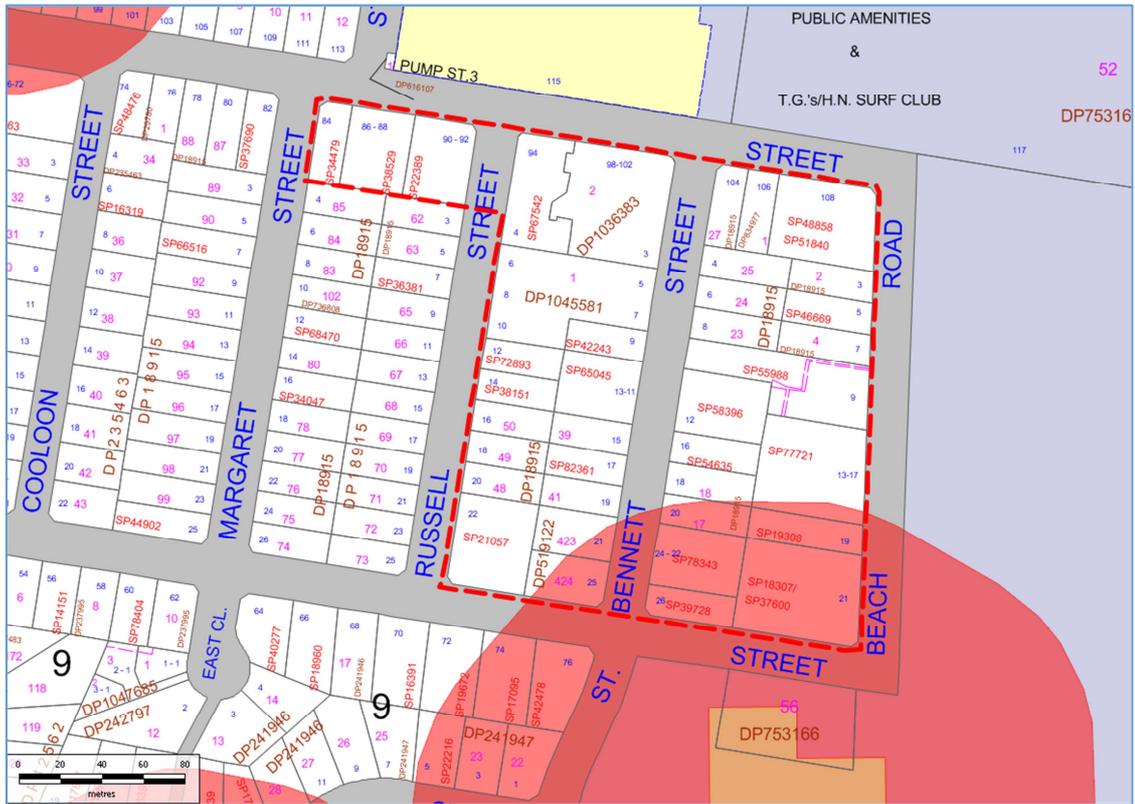
Great Lakes Local Environmental Plan 2014 - Flood Planning Area Map



Great Lakes Local Environmental 2014 Flood Planning Area map indicating Area A affected by flooding

Attachment 3

Bushfire Prone Land Mapping (Area B)

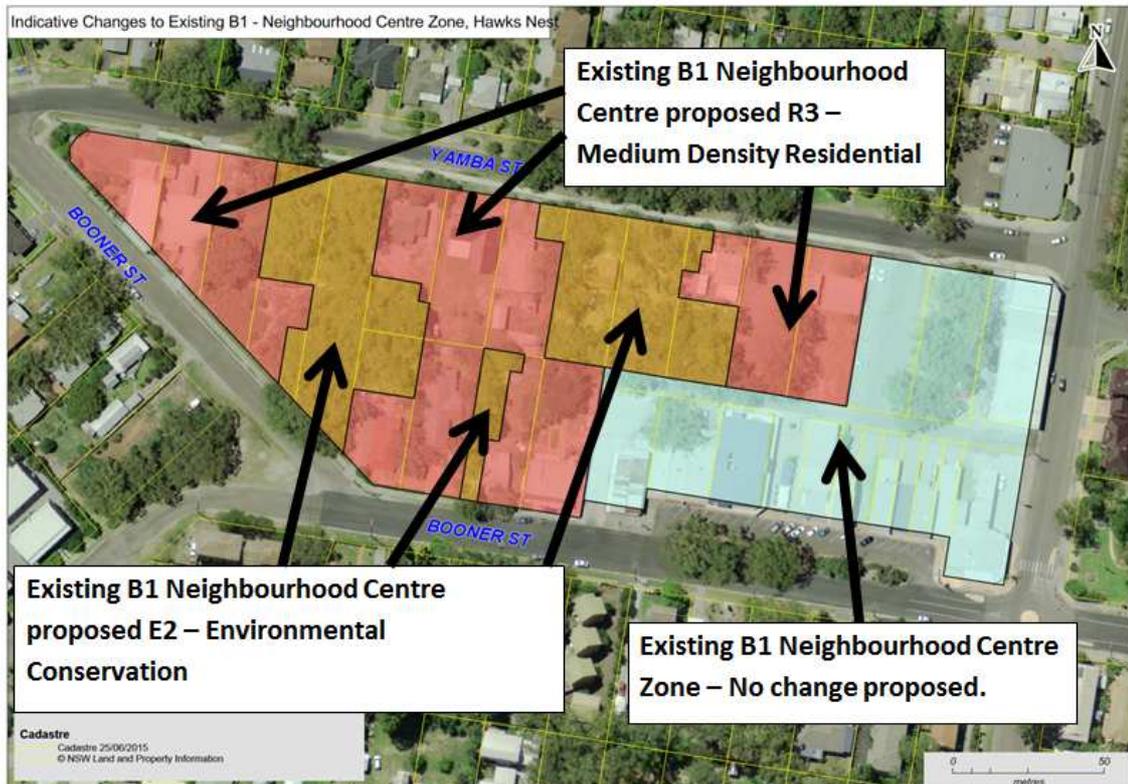


Bushfire Prone Land Map indicating location of Area B affected by “Buffer”*

*nb: Beige area denotes 'Vegetation Category 1'. Reddish/pink area denotes 'Buffer' to Vegetation Category 1.

Attachment 4

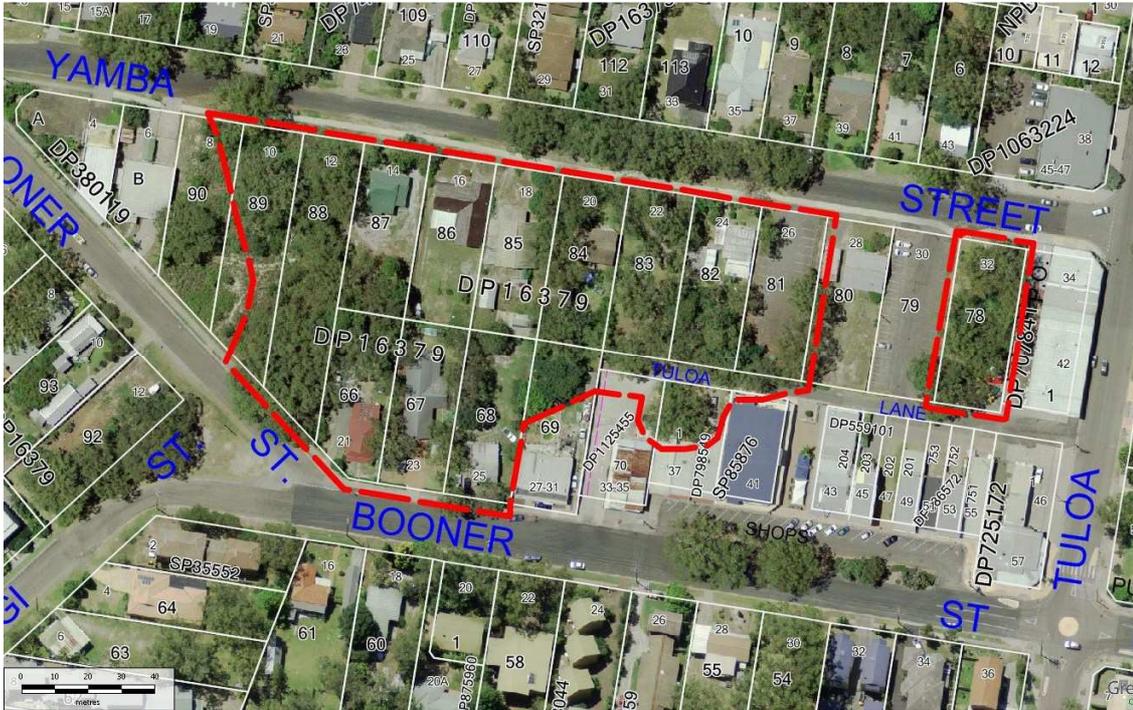
Indicative zoning – Area A (to be refined during community engagement)



Indicative zoning for Area A. Exact boundaries of proposed R3 – Medium Density Residential and E2 – Environmental Conservation Zone to be refined after community consultation.

Attachment 5

Indicative area for proposed Koala Corridor Clause



Location of Area A proposed for inclusion in Clause 7.9 (Protection of Habitat Corridors) in GLLEP2104

Attachment 6

Council report and resolution

Subject: PES - Planning Proposal - Hawks Nest Village Centre & LEP Amendments
Index: SP-PP-13
Author: Monica Gibson - Consultant, City Plan Services
Rebecca Underwood - Strategic Planner
Strategic Committee Meeting: 14 July 2015

SUMMARY OF REPORT:

This report outlines proposed amendments to *Great Lakes Local Environmental 2014* (GLLEP14) to implement the town centre review.

The amendments propose to rezone a portion of the excess B1 Neighbourhood Centre zoned land in Hawks Nest to a mix of R3 Medium Density Residential and E2 Environmental Conservation and a portion of beachfront R3 Medium Density Residential land to B4 Mixed Use.

A site specific clause is proposed for the beachfront business zone to limit the size of commercial development in this area. It is also proposed to expand clause 7.9 (Wildlife Corridors) of *Great Lakes Local Environmental Plan 2014* to the part of the Hawks Nest Koala corridor that passes through the town centre.

A Development Control Plan (DCP) is also proposed to guide development in the proposed R3 Medium Density Residential zone to protect identified Koala habitat and to establish development controls.

The purpose of this report is to explain the content and implications of the Planning Proposal (PP) and the key principles of the Draft Development Control Plan (DCP).

SUMMARY OF RECOMMENDATION:

That:

1. In accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* Council resolve to prepare a Planning Proposal to:
 - a) Rezone about two thirds of the current Hawks Nest B1 Neighbourhood Centre Zone to a mix of R3 Medium Density Residential and E2 Environmental Conservation Zone as shown on the figure contained in Annexure A to this report.
 - b) Amend clause 7.9 (fauna corridors) of *Great Lakes Local Environmental Plan 2014* so that it can be applied to the Koala corridor on the land that contains trees bounded by Boona, Yamba and Tuloa streets (current B1 Neighbourhood Centre Zone) in the town centre.
 - c) Rezone about 4.9 ha of land close to the beach to B4 Mixed Use Zone as shown in the figure contained in Annexure C and to make Multi Dwelling Housing permissible in this area.
 - d) Add a new local clause to *Great Lakes Local Environmental Plan 2014* which will limit the size of any commercial development in the new proposed B4 Mixed Use Zone at Hawks Nest to 120m².
2. Once prepared, submit the Planning Proposal to the Minister of NSW Planning and Environment for a Gateway Determination in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*.

3. In accordance with Section 59 of the *Environmental Planning and Assessment Act 1979* Council request written authorisation from the Minister of NSW Planning & Environment to exercise its plan making delegations for the Planning Proposal.
4. In the event that NSW Planning & Environment issue a Gateway Determination to proceed with the Planning Proposal, consultation be undertaken with the community and government agencies in accordance with Section 57 of the *Environmental Planning and Assessment Act 1979* and any directions of the Gateway Determination.
5. Council resolve to prepare Development Control Plan controls for the proposed R3 Medium Density Residential land between Booner and Yamba Streets and the proposed B4 Mixed Use Zone.
6. A separate report be submitted to Council on the application of clause 7.9 of *Local Environmental Plan 2014* more broadly across Hawks Nest.

FINANCIAL/RESOURCE IMPLICATIONS:

This project is proceeding within existing financial and resource allocations. The recommendations will not result in additional expenditure or resources.

POLICY IMPLICATIONS:

The amendments to the planning controls are consistent with Council's adopted principles for the revitalisation of the Hawks Nest area.

LEGAL IMPLICATIONS:

Nil.

LIST OF ANNEXURES:

- A: Map depicting land in Hawks Nest currently zoned B1 Neighbourhood Centre Zone proposed to be rezoned to a mix of R3 Medium Density Residential and E2 Environmental Conservation.
- B: Map showing indicative area for future inclusion in existing Protection of Wildlife Corridor Clause 7.9.
- C: Map of current R3 - Medium Density Residential Zone proposed for B4 Mixed Use Zone.
- D: Map of Hawks Nest depicting areas that can be cleared using the 10:50 Vegetation Clearing Rule.

LIST OF ATTACHMENTS:

Nil.

REPORT:

Background

City Plan Strategy and Development & Place Partners were engaged by Council in July 2014 to review the Hawks Nest Town Centre, with the following specific aims:

- Confirm whether there is a surplus of land zoned B1 Neighbourhood Centre in Hawks Nest;
- Determine the appropriate zone for any surplus B1 zoned land;
- Identify planning solutions to ensure the koala movement corridors are protected;
- Determine car parking requirements for the town centre; and

- Investigate other rezoning opportunities to provide for future development and community needs, including beachfront or riverfront locations and potential for a marina site.

The study made the following key findings:

1. That there is an excess supply of business zoned land and off-street car parking in the business zone.
2. That there is an opportunity for boutique businesses optimising the natural assets of the area (i.e. the beachfront and waterfront), that does not compete with the 'convenience' shopping experience offered by nearby shopping centres.
3. That the demography of Hawks Nest limits the business growth with fixed incomes and transient population. More permanent residents are required to improve local business success.
4. The local koala population is both a tourist opportunity and a development constraint. Development must ensure protection of the identified key koala habitat.
5. The current section 94 contributions for local car parking are in excess of requirements and should be reviewed.

Consultation with landowners, residents, business and service providers has been undertaken to identify the opportunities and challenges for the future development and renewal of commercial activities in Hawks Nest. Over 330 engagement contacts were made to an online survey, community workshops and stakeholder interviews.

The key recommendations from the study were presented to Council on 2 December 2014 where it was resolved to:

1. *Note the Integrated Engagement Report for the Hawks Nest Town Centre Review contained in Attachment A and The Hawks Nest Centre Review - Place Making Strategy - Draft for discussion contained in Attachment B to this report.*
2. *Note the Key Principles for the Hawks Nest Masterplan contained in Annexure A to this report.*
3. *Undertake further community engagement be undertaken on the findings of the Integrated Engagement Report and the Key Principles for the Hawks Nest Masterplan.*
4. *Following the further community engagement a further report be presented to Council for consideration of the Hawks Nest Masterplan, including recommendations for implementation.*
5. *The Integrated Engagement Report contained in Attachment A to this report by City Plan Services and Place Partners on the Community engagement for the Hawks Nest Review be made available to the community on Council's website.*
6. *That Council seek discussions with Crown Lands in relation to their land.*

In accordance with item 3 above, further community engagement was undertaken with the preparation and distribution of the Hawks Nest Business Revitalisation Update Brochure. The brochure contained information about the progress of the Hawks Town Centre Review, the outcomes of community consultation and provided ideas about how to get involved in revitalising the town centre.

The Integrated Engagement report and supporting documents were placed on Council's website for members of the public to view.

Cityplan are currently preparing a detailed Masterplan. The Planning Proposal which sets out the proposed zoning changes will be an important step in the preparation of the Masterplan. Other aspects of the Masterplan currently being prepared are a set of principles and how each of these

will be put into effect along with a prioritised implementation plan. The draft Masterplan and resulting DCP will be reported back to Council for consideration once they have been completed.

In regards to the Crown Land specified in the resolution, Council will consult with NSW Trade and Investment regarding any opportunities for this land during consultations with Government Agencies.

Proposed Planning Changes

The following is a summary of the proposed planning changes which will result from the Planning Proposal:

B1 Neighbourhood Centre to R3 Medium Density Residential and E2 Environmental Conservation

The existing Hawks Nest B1 Neighbourhood Centre Zone (2.6ha) is under-developed with many of the existing commercial buildings vacant, and a large area either not developed or developed for residential purposes. Based on the permanent resident population of Hawks Nest, there is demand for approximately 450m² of gross retail floor space in a neighbourhood centre. This would increase to around 1,200m² in peak season, if visitors shopped locally.

There is, however, over 2,800m² of built floor space within the existing Hawks Nest town centre. The oversupply of floor space is reflected in the high vacancy rate. In August 2014 only 13 of 25 shops were tenanted.

If all the existing B1 Neighbourhood Centre zoned land was occupied, there is potential for up to 26,000m² of retail floor space.

The permanent population is also of a size and demographic providing limited opportunity for business growth in the existing neighbourhood centre. Rezoning would allow the opportunity for more permanent residents who would benefit the local economy.

Based on this, and taking into consideration areas of the existing Hawks Nest B1 Neighbourhood Centre land that are ecologically constrained, it is recommended that the existing Hawks Nest B1 Neighbourhood Centre land be rezoned to a mix of R3 Medium Density Residential Zone and E2 Environmental Conservation Zone as shown in Annexure A.

The Hawks Nest Koala Population is listed as an endangered population under the *Threatened Species Conservation Act 1995* (TSC). Some areas within the existing B1 Neighbourhood Centre have been identified as part of a key Koala movement corridor, providing feed trees and shelter for the local koala population. The E2 Environmental Conservation Zone is proposed over the parts of the existing B1 Neighbourhood Centre zoned land that are considered to be the most important Koala habitat.

Retention of this Koala corridor within the existing B1 Neighbourhood Centre zone or inclusion in the proposed R3 Medium Residential zone would expose the habitat to threats from clearing for development.

Rezoning to E2 Environmental Conservation would also be consistent with the rezoning of other crucial Koala habitat on the southern side of Kingfisher Ave at the eastern end of the bridge over the Myall River (Brancourt land).

Therefore it is recommended that the environmentally constrained sections of the B1 Neighbourhood Centre zoned land as identified in Annexure A to this report be rezoned to E2 Environmental Conservation, with the following planning controls:

- maximum height of 8m (no change)
- floor space ratio of 0.4:1 (no change) and

- minimum lot size of 40,000sqm (no change).

Based on the oversupply of B1 Neighbourhood Centre zoned land in Hawks Nest it is recommended that the sections of the Hawks Nest B1 Neighbourhood Centre land as shown in Annexure A to this report be rezoned to R3 Medium Density Residential, with the following planning controls:

- maximum building height of 12m (no change)
- floor space ratio of 1:1 (new) and
- minimum lot size of 1,000sqm (increased from 700sqm).

Inclusion of a Koala Habitat Corridor Clause

The Hawks Nest Koala population is covered by a Koala Recovery Plan under the Threatened Species Conservation Act. Under the Recovery Plan, a number of objectives and actions identify government agencies and the community as having responsibility for management and protection of Koala habitat. A key objective action for Council is set out below.

Objective 4: To incorporate Koala conservation into planning processes

Performance Criterion: Koala conservation is effectively incorporated into GLC planning processes; Koala habitat is protected with appropriate environmental zoning in the GLC LEP; preparation of a KPOM or a CKPoM is considered and underway if necessary.

The presence and movement patterns of the local Hawks Nest koala population have been extensively studied and reported. Koalas are a key tourist attraction to the area.

Within the existing Hawks Nest B1 Neighbourhood Centre Zone there are numerous individual trees and one clump of trees that, from a practical point of view, have not been included in the land proposed to be zoned E2 Environmental Conservation. These, however, all form part of the Koala habitat and should be given some statutory recognition under GLLEP 2014. It is therefore recommended that all of the land in the current Hawks Nest town centre that contains trees be linked to the existing fauna corridor clause of GLLEP 2014.

Presently, the fauna corridor clause of GLLEP 2014 only applies to certain land mapped at Pacific Palms but it would be simple to amend the clause so that it can be applied to the Koala corridor at Hawks Nest.

The following is clause 7.9 taken from *Great Lakes Local Environmental Plan 2014* which currently applies to Pacific Palms:

Great Lakes Local Environmental Plan 2014 - Part 7 Additional Local Provisions

7.9 Protection of wildlife corridors at Pacific Palms

1. *The objective of this clause is to ensure that proper regard is given to wildlife corridors in carrying out development on land to which this clause applies.*
2. *This clause applies to land identified as "Protection Corridor" on the Protection of Wildlife Corridors Map.*
3. *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
 - a) *any wildlife corridors will be maintained (or regenerated where necessary) to ensure their continued protection, and*
 - b) *the development will not negatively impact on any wildlife corridor (whether directly or indirectly).*

There are broader areas across Hawks Nest outside of the current B1 Neighbourhood Centre zone that are important Koala habitat. These should also be mapped and linked to clause 7.9. Whilst indicative mapping, contained in Annexure B, has been prepared for the broader Koala habitat it still needs some refinement and should be considered by Council separate to this planning proposal. A further report can be submitted to Council when the refined mapping has been prepared.

It is apparent from Annexure B that the town centre is a crucial part of the Koala corridor. This justifies application of clause 7.9 over the town centre in advance to it being considered for wider application across Hawks Nest.

The reason the clause should be applied broadly across the Hawks Nest area is because a strategic approach should be taken to managing Koala habitat.

R3 Medium Density Residential to B4 Mixed Use

Hawks Nest needs to compete with larger centres on points of difference rather than convenience. It has unique opportunities for businesses utilising the natural features of the area. To give greater opportunity for business and tourist uses to evolve close to the one of the main natural features it is recommended that a B4 Mixed Use zone replace the current R3 Medium Density zone over some land near the beach (see Annexure C).

The B4 Mixed Use zone is proposed to enable beachfront cafes, restaurants, boutique tourist shops, hotels and tourist accommodation that optimise the natural asset.

Currently, under GLLEP 2014 Multi-dwelling housing is prohibited in the R3 Medium Density zone. It is recommended that this use be added to the permitted land uses for the proposed B4 zone in this location, to reflect the current uses established in this area, and to encourage activities that bring more tourism activity to this part of Hawks Nest.

It is recommended that 4.9ha of R3 Medium Density Residential land as shown in Annexure C be rezoned to B4 Mixed Use, with the following planning controls:

- a maximum height of 12m (no change)
- floor space ratio of 1:1 (no change) and
- a minimum lot size of 1,000sqm (no change).

New Local Clause Applicable to the proposed B4 Mixed Use Zone

The role and function of the area which is to remain in the B1 Neighbourhood Centre zone and the proposed B4 Mixed Use zone are very different. The proposed B4 Mixed Use area is intended to be a precinct with a mix of residential and commercial uses, with a preference for tourist-oriented development. The remaining B1 Neighbourhood Centre zone is intended to service the needs of the community who live and work in the immediate area.

These differences are reflected in the permissible uses and objectives of the B4 Mixed Use and B1 Neighbourhood Centre zones. Development proposals must demonstrate how they meet the objectives of the zone.

One of the objectives of the B4 Mixed Use zone is:

To encourage development that does not prejudice the established business and industrial centres.

A specific local clause is proposed for the proposed B4 Mixed Use Zone to reinforce the above objective. The new proposed local clause will set a 120m² maximum gross floor area for any commercial premises in the proposed B4 Mixed Use Zone. This maximum size is in keeping with

Council's existing provision for "neighbourhood shops" and is intended to only permit small commercial premises. This is considered desirable for the proposed B4 Mixed Use Zone, where the small shops and commercial premises are for speciality and tourist uses, rather than larger shops like supermarkets or pharmacies.

There is no maximum area proposed for commercial premises in the B1 Neighbourhood Centre zone.

Views of the main landowner

Council has been in negotiations with the consultant (Tattersall Lander Pty Ltd) for the main owner (CJHA) of the existing B1 Neighbourhood Centre which is proposed to be rezoned. In response to Council's proposed rezoning and LEP provisions Tattersall Lander have advised:

"Further to our meeting on the 19th March 2015, I can confirm that CJHA Pty Limited has been kept in the loop and can confirm the following advice:

1. *CJHA Pty Limited confirms that is in agreement with Council's Master Plan modifications.*
2. *The areas of Open space to the west can be zoned E2 and transferred to Council at the Subdivision Certificate date as part of a contribution after the reserve is rehabilitated and a Plan of Management is developed as part of the Development Application documentation for the CJHA lands.*
3. *Other Open Space lands need not to be identified at this time for zoning to E2 as CJHA are at least 2 years from formalising any development concept for the land but it is considering this particular matter and timing further. It is noted that the location being sought by Council coincide with our initial designs, so it would be more appropriate to have the general Protection of Wildlife Corridors provisions control these more isolated and individual areas.*
4. *As the development of the western part of the Commercial area is proposed to be rezoned to R3 zoning it is requested that the following matters be incorporated within the zone attributes for this site. It is suggested that perhaps this site can be added to Schedule 1 of the GLCLEP 2014 Additional Permitted Uses with the following additional attributes:*
 - a. *Subdivision into lots <400m².*
 - b. *Zero lot lines for side boundaries.*
 - c. *Zero to 2m lot lines for rear and front boundaries.*
 - d. *Density levels to be consistent with what we can produce for this site, given ecological constraints.*

In this regard, it is intended that the Hawks Nest project will be an integrated Application that will propose a fully consistent but final built form development that will justify the relevant location of all dwellings and boundary lines that will be sought...."

The main landowner has provided in-principle support for the proposed rezoning and fauna corridor provisions over their land. The precise boundary for each of the proposed zones can be resolved through the community engagement process.

The request in item 4a above is already possible under clause 4.1A of LEP 2014 as integrated development. The other requests for Council to enable some flexibility relate to DCP controls and will be addressed in the DCP that will be prepared for this area.

Development Control Plan

The proposed R3 Medium Density Residential area between Booner and Yamba Streets is part of the corridor used by the endangered population of koalas in Hawks Nest. It contains several mature koala feed trees and provides an important feeding resource and movement corridor. A

preliminary subdivision layout for this area has been prepared which will protect the majority of the Koala trees. This preliminary layout can be included in the DCP.

Community support for the changes to the existing business area was contingent on new residential development fitting with the character of the area and bringing a permanent population.

It is important that these issues are addressed in the development guidelines that apply to the site through the Great Lakes Development Control Plan 2014 (GDCP14).

Recommended matters to be included in the GDCP14 are:

1. Good design principles relating to building heights and setbacks, densities, materials, colours, form and scale, that are compatible with the adjoining areas.
2. An overall landscaping strategy for the protection and enhancement of a local koala population including remnant vegetation, wildlife corridors and native flora and fauna habitats, including visually prominent locations, and detailed landscaping requirements for both the public and private domain.
3. An in-principle lot layout that integrates with the Koala trees.
4. Stormwater and water quality management controls.
5. Principles for commercial development in the area proposed to be zoned B4 mixed use.

It is recommended that the DCP be concurrently exhibited with the Planning Proposal. The draft DCP controls can be prepared and reported to Council while the Department of Planning and Environment is considering Council's request for a Gateway Determination.

Bushfire considerations

The intent of the Protection of Wildlife Corridors clause is to ensure that regard is given to wildlife corridors when carrying out development. However, it may be argued that with the introduction of the 10:50 Vegetation Clearing rule there is an opportunity for landowners to clear trees in wildlife corridors anyway if they meet the criteria under 10:50.

Fortunately the majority of the B1 Neighbourhood Centre zone lies outside the area where the 10:50 could be used for legitimate tree removal for bushfire protection.

CONCLUSION

To deliver the aims of the project as set out at the beginning of this report it is recommended that a Planning Proposal be prepared which:

- Rezones about two thirds of the current B1 Neighbourhood Centre zone to R3 Medium Density Residential and E2 Environmental Conservation as shown in Annexure A.
- Applies the existing fauna corridor clause of GLLEP 2014 to the Koala habitat in the town centre.
- Rezones about 4.9 ha of land close to the beach to B4 Mixed Use as shown in Annexure C and which makes Multi Dwelling Housing permissible with consent within this area.
- Adds a new local clause to GLLEP14 which will limit the size of any commercial development in the new B4 Mixed Use to 120m².

It is also recommended that DCP provisions be created to give further guidance to development in the two areas.

Subject: PES - Planning Proposal - Hawks Nest Village Centre & LEP Amendments
Index: SP-PP-13
Author: Monica Gibson - Consultant, City Plan Services
Rebecca Underwood - Strategic Planner
Strategic Committee Meeting: 14 July 2015

RECOMMENDATION:

That:

1. In accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* Council resolve to prepare a Planning Proposal to:
 - a. Rezone about two thirds of the current Hawks Nest B1 Neighbourhood Centre Zone to R3 Medium Density Residential and E2 Environmental Conservation Zone as shown on the figure contained in Annexure A to this report.
 - b. Amend clause 7.9 (fauna corridors) of *Great Lakes Local Environmental Plan 2014* so that it can be applied to the Koala corridor on the land that contains trees bounded by Boona, Yamba and Tuloa streets (current B1 Neighbourhood Centre Zone) in the town centre.
 - c. Rezone about 4.9 ha of land close to the beach to B4 Mixed Use Zone as shown on the figure contained in Annexure C to this report and to make Multi Dwelling Housing permissible in this area.
 - d. Add a new local clause to *Great Lakes Local Environmental Plan 2014* which will limit the size of any commercial development in the new proposed B4 Mixed Use Zone at Hawks Nest to 120m².
2. Once prepared, submit the Planning Proposal to the Minister of NSW Planning and Environment for a Gateway Determination in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*.
3. In accordance with Section 59 of the *Environmental Planning and Assessment Act 1979* Council request written authorisation from the Minister of NSW Planning & Environment to exercise its plan making delegations for the Planning Proposal.
4. In the event that NSW Planning & Environment issue a Gateway Determination to proceed with the Planning Proposal, consultation be undertaken with the community and government agencies in accordance with Section 57 of the *Environmental Planning and Assessment Act 1979* and any directions of the Gateway Determination.

5. Council resolve to prepare Development Control Plan controls for the proposed R3 Medium Density Residential land between Booner and Yamba Streets and the proposed B4 Mixed Use Zone.
6. A separate report be submitted to Council on the application of clause 7.9 of *Great Lakes Local Environmental Plan 2014* more broadly across Hawks Nest.

RESOLUTION

(Moved C McCaskie/Seconded A Summers)

That the above recommendation be adopted.

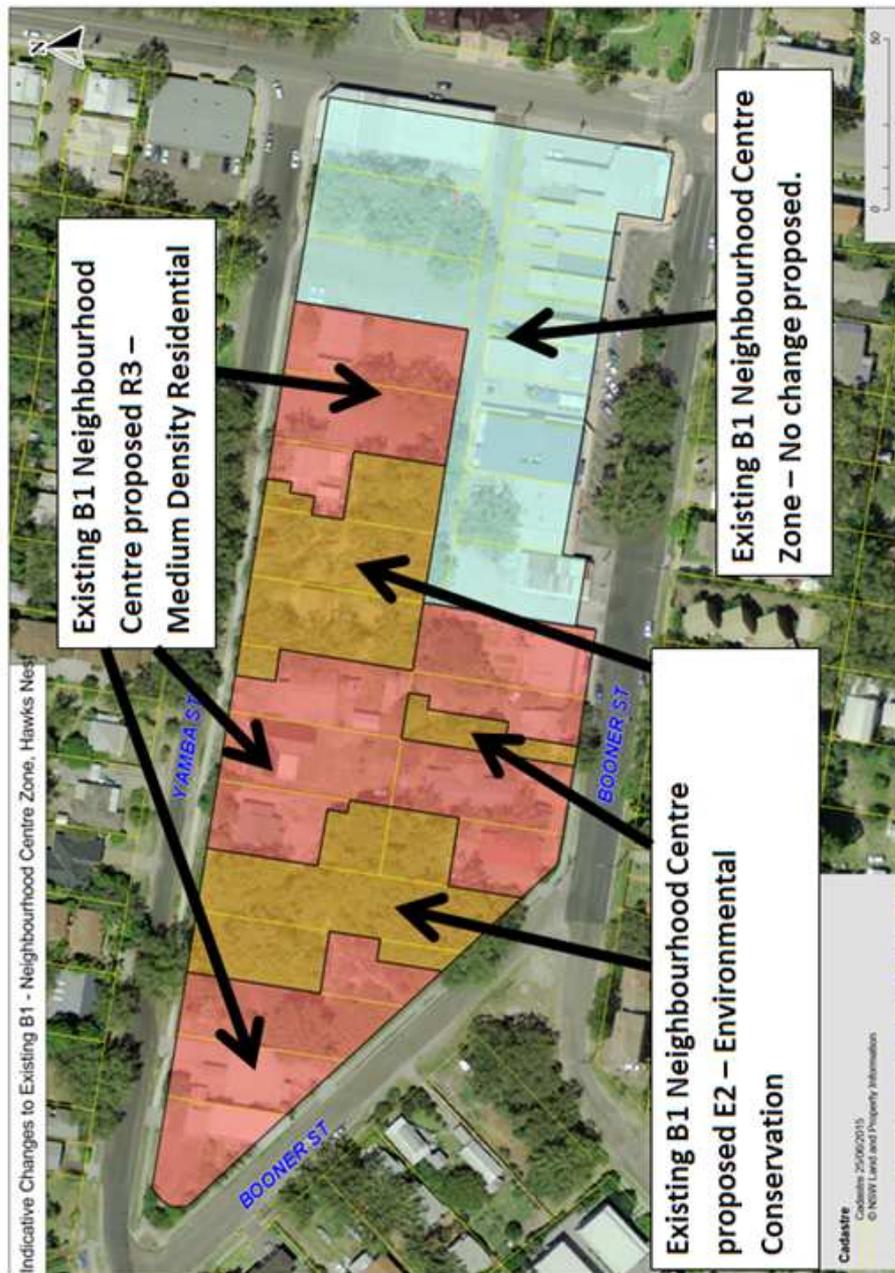
In accordance with Section 375A of the Local Government Act 1993 a division is required to be called whenever a planning decision is put at a Council or committee meeting. Accordingly, the Chairperson called for a division in respect of the **motion**, the results of which were as follows:

FOR VOTE - Cr J McWilliams, Cr J Morwitch, Cr C McCaskie, Cr A Summers, Cr L Gill, Cr L Vaughan, Cr J Weate

ABSENT. DID NOT VOTE - Cr L Roberts, Cr K Hutchinson

ANNEXURES:

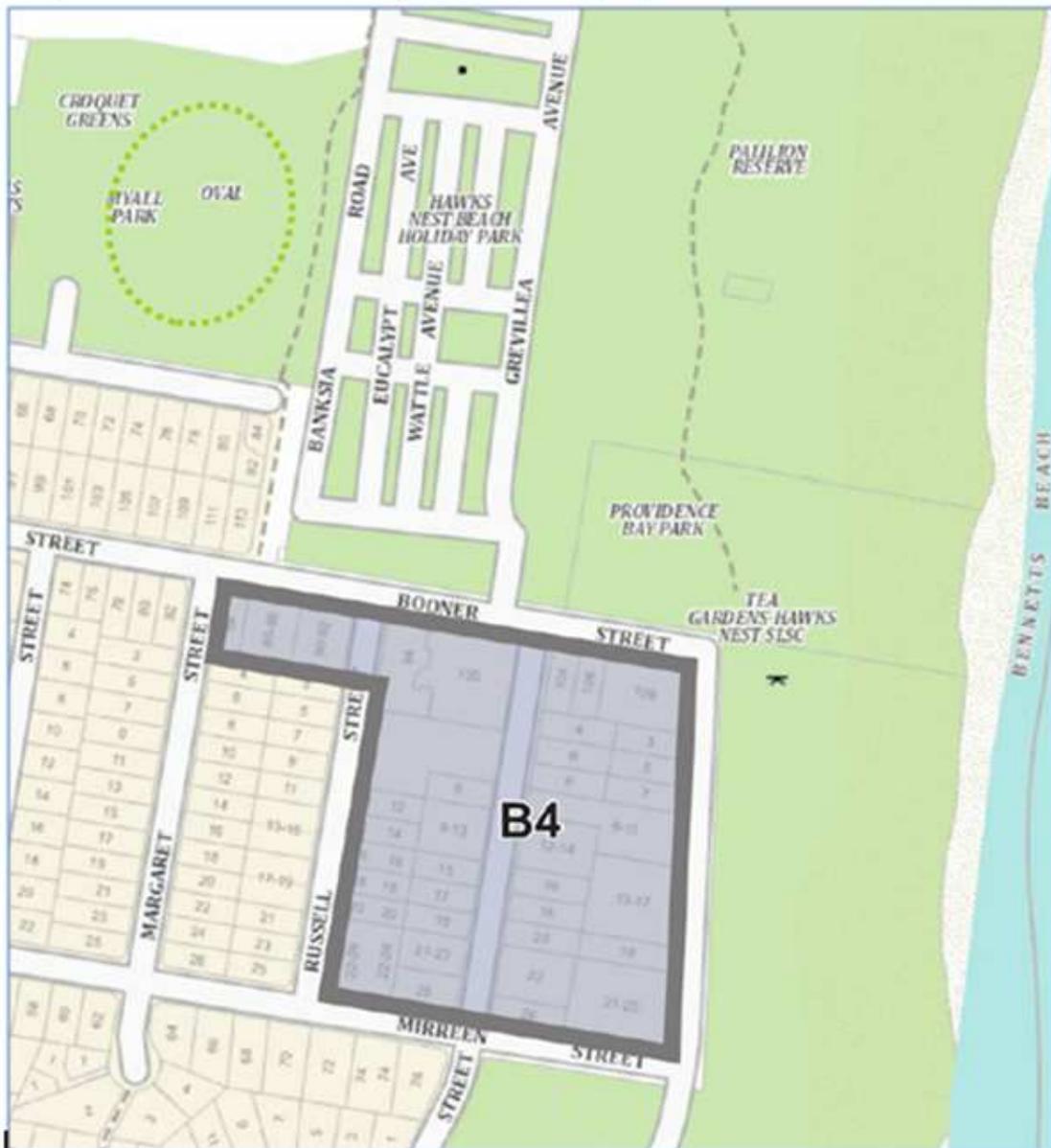
- A: Map depicting land in Hawks Nest currently zoned B1 Neighbourhood Centre Zone proposed to be rezoned to a mix of R3 Medium Density Residential and E2 Environmental Conservation.



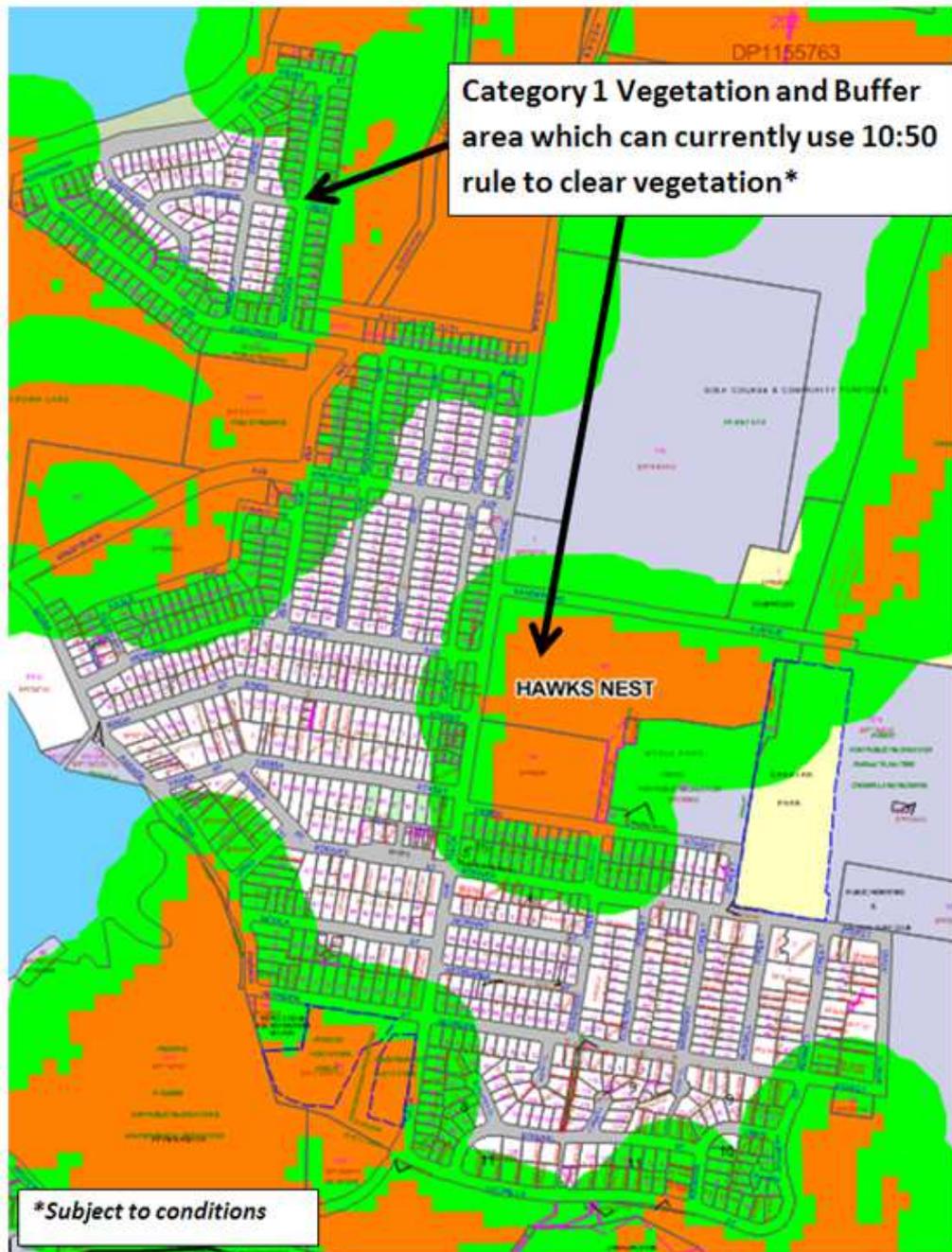
B: Map showing indicative area for future inclusion in existing Protection of Wildlife Corridor Clause 7.9.



C: Map of current R3 - Medium Density Residential Zone proposed for B4 Mixed Use Zone.



D: Map of Hawks Nest depicting areas currently able to clear using the 10:50 Vegetation Clearing Rule.



Attachment 7

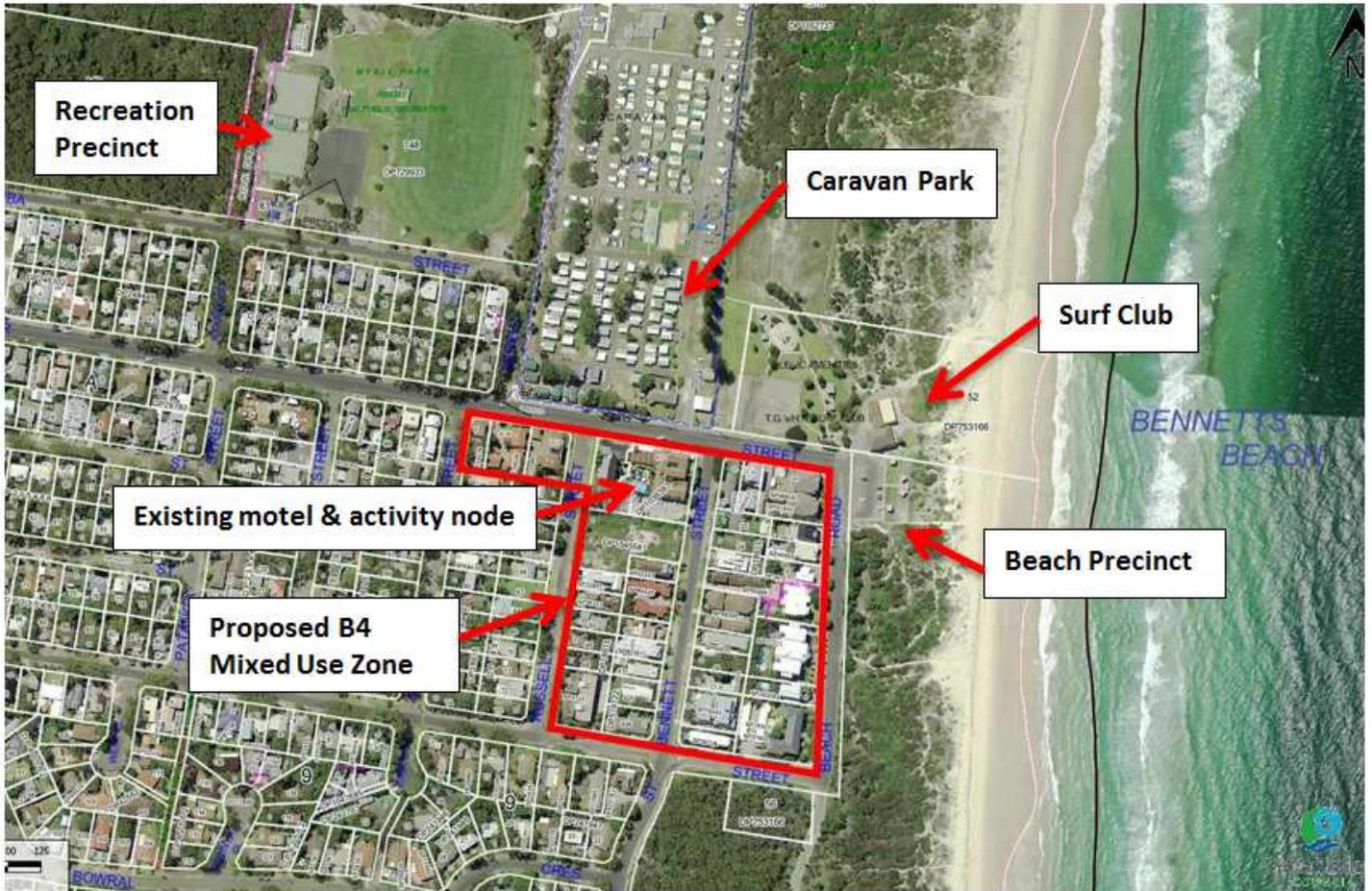
Integrated Engagement Strategy (Place Partners – Place Making Consultancy 2014)

Attachment 8

Hawks Nest 3A Business Zone Review and Strategy (Andrew's Neil, 2003)

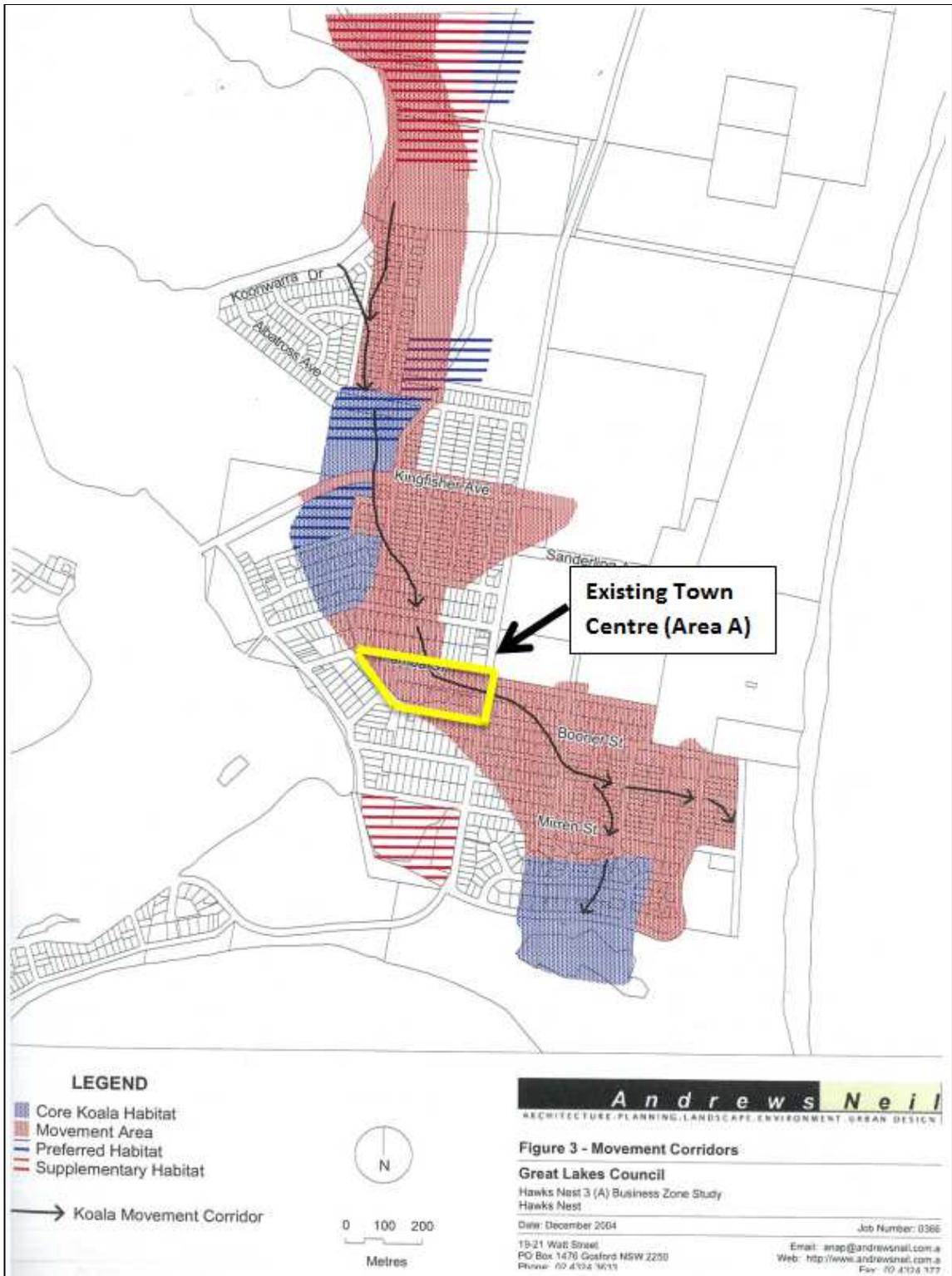
Attachment 9

Location of proposed B4 – Mixed Use Zone in context with surrounding land uses



Attachment 10

Hawks Nest Koala Habitat and Movement Corridor*



Hawks Nest Koala Habitat and Movement Corridor showing location of Area A as it relates to the broader habitat corridor.

* taken from "Hawks Nest 3A Business Zone Review & Strategy (Andrew's Neil, 2003)", Attachment 8

