



city council

PLANNING PROPOSAL

AMENDMENT TO THE MAITLAND LEP 2011

**CHISHOLM NEIGHBOURHOOD CENTRE
SETTLERS' BOULEVARD, CHISHOLM**

(Lot 3 DP1220220)

**Version 2
November 2016**



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Version 1 – 8 November 2016 (For Section 55 Council Report)

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INTRODUCTION

This planning proposal has been prepared in accordance with Section 55 of the Environmental Planning and Assessment Act 1979. It explains the intended effect of, and justification for the proposed amendment to Maitland Local Environmental Plan 2011 (MLEP 2011) to:

1. Change the LZN, LSZ, FSR and HOB map series to reflect changes in the extent of the B1 Neighbourhood Centre zone and associated controls for the Chisholm Neighbourhood Centre.
2. Add "Recreation Facility (Indoor)" as a permitted with consent use in the B1 Neighbourhood Centre zone.

BACKGROUND

Chisholm Neighbourhood Centre is part of the Thornton North Urban Release Area.

Council commissioned Hill PDA to undertake a Maitland Centres Study in 2009. The Centres Study states in relation to the Chisholm Neighbourhood Centre:

"In light of constraints in Thornton Town Centre, it is recommended that a new village centre is planned for development commensurate with residential development in the Thornton North Release Area. If planned appropriately, a new village centre in Thornton North could support (rather than compete) with the existing Thornton Town Centre.

A centre in this location would provide a range of retail, business and community uses that serve the retail convenience needs of the local community. It would also provide a diversity of choice and local sustainable shopping options that reduce the need to travel to larger centres for top up or convenience shopping. Our retail analysis suggests that a centre in the order of 2,000 sqm to 4,000 sqm would be appropriate."

In 2010 Council prepared the Activity Centres and Employment Clusters Strategy. In relation to Chisholm the Strategy states:

"The planning and development of the Chisholm Local Centre must be undertaken in the context of the significant residential development that is occurring in the Thornton North urban release area. Analysis suggests that this new activity centre could potentially be similar in size and offer to the existing local centre at Lorn.

It is envisaged that the Chisholm Local Centre will provide a diverse range of convenience retail integrated with limited commercial activities through the encouragement of live/work units and home businesses to development at the edge of the centre. It is also envisaged that some small-scale community and recreational facilities servicing the needs of the immediate population will also form part of the growth of this activity centre."

On 24 November 2009 a report to Council recommended that a 3.2ha area in Chisholm be rezoned to 3(a) General Business. The area was intended to accommodate a variety of retail and commercial uses, some live/work units, associated 'at-grade' car parking, landscaping and

servicing such as roads and loading areas. The report considered the draft Maitland Centres Strategy 2009.

Council resolved to *“submit a planning proposal to the Department of Planning to amend the Maitland LEP 1993 for the purpose of a new local centre within the Thornton North urban release area.”*

In September 2010, amendment 105 of the Maitland Local Environmental Plan 1993 rezoned a reduced area (2.5ha) from 2(a) Residential to 3(a) General Business. Furthermore, clause 22 (1A) was added to regulate the maximum FSR: *“A maximum floor space ratio of 0.5:1 applies in the Chisholm Local Centre, as shown edged heavy black on the map marked ‘Maitland Local Environmental Plan 1993 (Amendment No 105)’ deposited in the office of Maitland City Council.”*. Therefore, the maximum floor space intended for the centre was 12,500m².

In 2006 the State Government issued the Standard Instrument (Local Environmental Plans) Order. This order set out how all local environmental plans in NSW were to be standardised. In 2011, Maitland Local Environmental Plan 2011 replaced the Maitland Local Environmental Plan 1993. During the process of drafting the new LEP an unexplained mapping error occurred that increased the area of the B1 zone from 2.5Ha in the Maitland LEP 1993 to 3.9Ha in the Maitland LEP 2011. The other controls for both FSR and HOB remained mapped at 2.5Ha.

Since the rezoning of the land for a neighbourhood centre, Chisholm has been developed and cadastral boundaries of properties and roads have been established. The area that has been rezoned sits within Tigerhawk Drive, Heritage Drive and an unnamed road to the south. Between the B1 zone and Settlers’ Boulevard is a 40m strip (approximately) of R1 General Residential zoned land. The 2009 plan envisaged that this land would be occupied by residential, home office type uses. However, this type of development is unlikely to occur in this location and it is difficult to require or enforce.

The existence of the strip of R1 land complicates the planning of the centre and risks supporting a significantly higher floor space than was envisaged for the centre. There are a number of commercial-type uses such as medical centres and childcare centres that are permitted with consent on R1 General Residential zoned land. As there is no FSR control over the R1 zoned land any floorspace for these types of uses would not be counted in the FSR calculation for the site.

Another risk to the development of the site is by clause 5.3 of the MLEP2011 that allows uses that are permitted in one zone to extend over an adjoining zone by a maximum of 20m. This would allow uses permitted in the B1 zone to extend over into the R1 zone by 20m. This additional area would not be counted as floorspace.

Within the existing policy framework there is little means to ensure that the floorspace on the site is capped at the 12,500m² level envisaged in the amendment 105 to the Maitland LEP.

Therefore, it is proposed to rezone all the land enclosed by Tigerhawk Drive, Heritage Drive, Settlers’ Boulevard and the unnamed road to B1 Neighbourhood Centre. This is a total area of 4.2Ha. A FSR of 0.3:1 would be applied to the whole area thereby constraining the floor space to 12600m².

A height of buildings (HOB) of 8.0m applies to part of the site. However, the topography of the site and the area that it covers does not lend itself to a prescriptive control. Therefore, it is proposed to remove the HOB control over the site and to leave this to a merit assessment during the development approval process.

A request has also been received to permit Recreation Facility (Indoor) as a permitted with consent use within the B1 Neighbourhood Zone. This would permit a gymnasium and other indoor recreational uses to be considered in that zone. Recreation Facility (Indoor) is permitted with consent in all other business zones. It is considered an appropriate use in the B1 Neighbourhood zone also.

PART 1: OBJECTIVES OR INTENDED OUTCOMES

The objectives of the proposal are to amend the Maitland Local Environmental Plan 2011:

- to facilitate the precinct plan for the Chisholm Neighbourhood Centre;
- to reflect the cadastral boundaries of the site;
- to ensure the development of the centre is consistent with previous Council resolutions; and
- to remedy a previous error in mapping for the Chisholm Neighbourhood Centre.

PART 2: EXPLANATION OF PROVISIONS

The planning proposal seeks:

1. To amend the LZN_006A map to increase the area of the B1 Neighbourhood Centre zone to fill the area defined by Tigerhawk Drive, Settlers Boulevard, Heritage Drive and the unnamed road to the south of the site.
2. To apply a new FSR_006A of 0.3:1 over the area of B1 Neighbourhood Centre.
3. To remove the HOB controls for the site.
4. To remove the LSZ controls over the area.

PART 3: JUSTIFICATION FOR PROPOSED REZONING

In accordance with the Department of Planning's 'Guide to Preparing Planning Proposals', this section provides a response to the following issues:

- Section A: Need for the planning proposal;
- Section B: Relationship to strategic planning framework;
- Section C: Environmental, social and economic impact; and
- Section D: State and Commonwealth interests.

SECTION A – NEED FOR THE PLANNING PROPOSAL

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

The planning proposal is not the result of a strategic study or report.

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

Council has considered many options to resolve the error in the area of the B1 Neighbourhood Centre that occurred. There are a number of ways to achieve this. However, each of these introduces complexity and risk. The preferred approach that is presented in this planning proposal is considered the simplest, most effective means to enforce the floor space that was originally facilitated by the Maitland Local Environmental Plan 1993. A brief discussion of the options is provided below.

Option 1 – rezone the area of B1 back to 2.5Ha

This option will not be supported by the owners of the land.

It would also result in the increase of residentially zoned land between Settlers' Boulevard and the B1 Zone. This residentially zoned area could accommodate commercial land uses such as childcare centres and medical centres that would not be counted in the floor space. Furthermore, clause 5.3 of the Maitland LEP allows Council to consider the extension of commercial uses into the R1 zone by a maximum of 20m. This would also not be counted in the FSR calculations.

Option 2 – no changes

This option would maintain the 3.9Ha area of B1 Neighbourhood Centre with Floor Space Ratio (FSR) and Height of Buildings (HOB) controls over 2.5Ha. This option would allow Council to assess building heights and floor space ratio in area between the 2.5Ha and 3.9Ha area on a merit basis. It would be possible for Council to restrict all building works to within the 2.5Ha area by applying a "0" FSR and "0m" HOB to the area outside the 2.5Ha area (Figure 1). However, this is unlikely to be supported.

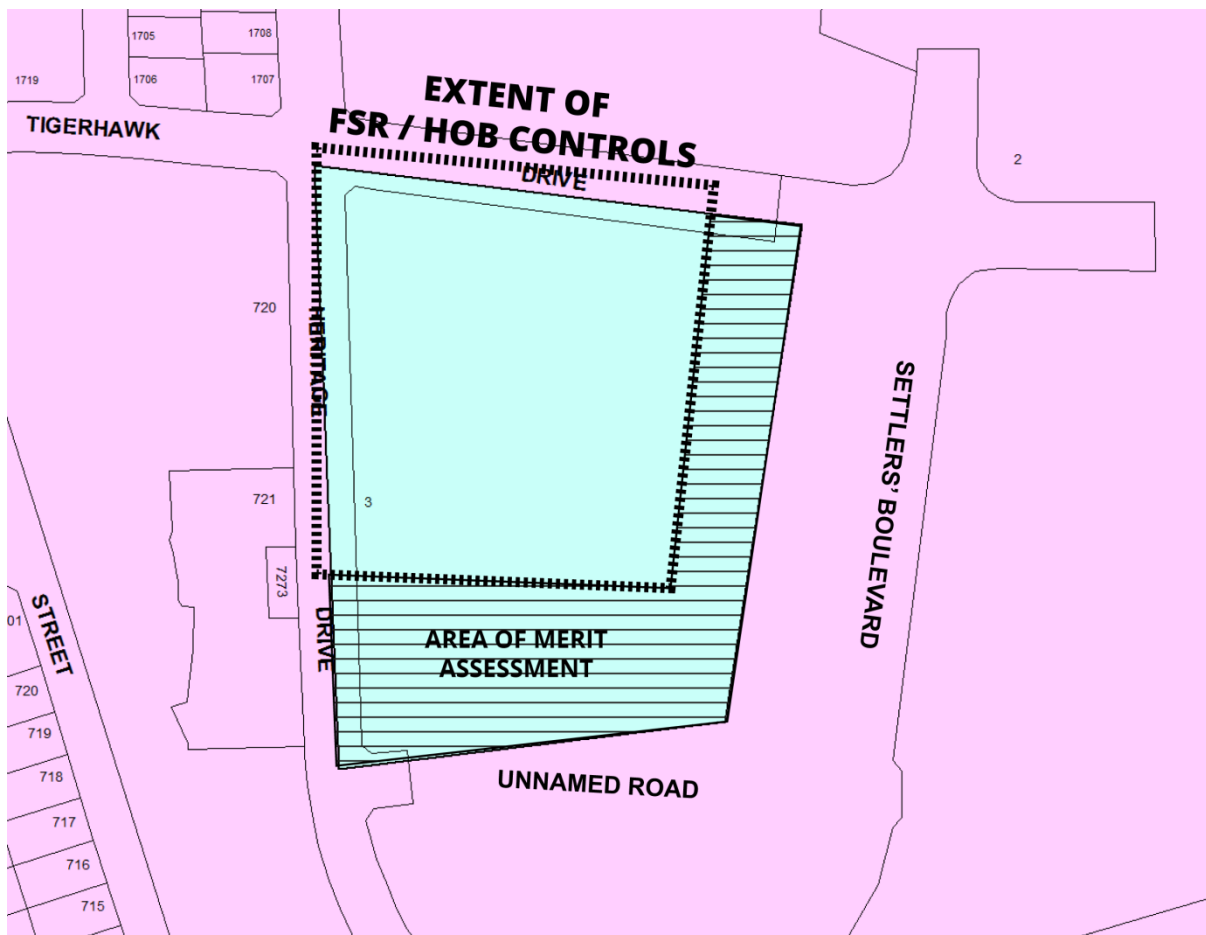


Figure 1: Merit based assessment option.

Option 3 – Expand FSR and HOB controls to the extent of the B1 Neighbourhood Centre (i.e. 2.5Ha to 3.9Ha)

This option would align the HOB and FSR development controls with the area of B1 Neighbourhood Centre. However, applying the 0.5:1 FSR ratio over 3.9Ha would result in a

possible floor space of 19,500m² plus any floor space that is achieved for uses in or extending into the adjoining R1 zone. This far exceeds the 12,500m² facilitated in the MLEP1993. Reducing the FSR control is an option to 0.32:1. However this is an awkward FSR to enforce and it does not consider the additional potential floor space within the R1 zone.

Option 4 – Rezone all land bounded by the four roads and apply a 0.3:1 FSR (Recommended option)

This option would increase the area of B1 to 4.2Ha in total and remove all residentially zoned land. A maximum FSR control of 0.3:1 would be applied over the entire site. This would result in a maximum FSR of 12600m² over the site and removes any ability to elicit additional floorspace. This option also allows the proponent greater freedom to locate uses within the site.

This is Council's preferred option and the subject of this planning proposal.

Height of buildings and the inclusion of Recreation Facility (Indoor) as a permitted with consent use in the B1 Neighbourhood Centre zone

At present a maximum HOB of 8.0m applies over 2.5Ha of the site. It is considered that this control will contribute little to the built outcome of the site. The zone extent and the FSR control should encourage a low-level development and there is little risk of overbearing on sensitive land uses. The topography of the site may cause buildings to exceed this control in some areas of the site. Therefore, it is proposed to remove the control and leave it to merit assessment at the development application stage.

A request has also been made from the proponents to include Recreation Facility (Indoor) as a permitted with consent use in the B1 Neighbourhood Centre to allow the consideration of gym within the development. Recreation Facility (Indoor) is permitted in all other business zones. It is considered an appropriate land use in a centre. Therefore it is recommended that Recreation Facility (Indoor) be permitted with consent in the B1 Neighbourhood Centre zone.

3. Is there a net community benefit?

No net community benefit test has been undertaken as part of this planning proposal. However, the Chisholm Neighbourhood Centre is considered an important facility to service the needs of the growing Chisholm/Thornton North community.

The resolution of these land use issues will enable development of the centre to commence. The centre will provide retail, entertainment and commercial uses and it will become a focal point for the community.

Therefore, it is considered that there will be a positive benefit to the Chisholm Community.

SECTION B – RELATIONSHIP TO STRATEGIC PLANNING FRAMEWORK

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Hunter Regional Plan 2036

The following directions are relevant to the proposal.

Relevant Direction	Response
Direction 17: Creating healthy built environments through good design.	The Chisholm Neighbourhood Centre will provide essential services and a focal point for the community. A draft precinct plan has been prepared. The centre is centrally located and very accessible by car, walking and cycling. The centre will include a bus set-down that will provide opportunities for interchange between different modes.
Direction 21: Create a compact settlement.	This centre is in the Thornton North Urban Release Area. It is a key component of the Maitland Corridor Growth area.

5. Is the planning proposal consistent with the local council's Community Strategic Plan, or other local strategic plan?

Maitland +10 (Community Strategic Plan)

The proposal supports the objectives of the Council's community strategic plan (Maitland +10).

Maitland Urban Settlement Strategy 2012

The proposal is consistent with the Maitland Urban Settlement Strategy 2012. Thornton North is identified as one of Council's Urban Release Areas and is expected to house up to 10,000 people.

6. Is the planning proposal consistent with applicable state environmental planning policies?

There are no relevant State Environmental Planning Policies.

7. Is the planning proposal consistent with applicable Ministerial Directions for Local Plan making?

Table 1: s117 Directions.

s117 DIRECTIONS		CONSISTENCY AND IMPLICATIONS	
1. EMPLOYMENT AND RESOURCES			
1.1 Business and Industrial zones		Inconsistent	
The objective of this direction is to protect employment land, encourage employment growth and support the viability of centres.		The proposal is generally consistent with the direction in that it seeks only to amend the B1 Neighbourhood Zone to ensure that the maximum allowable floor space originally permitted in the Maitland Local Environmental Plan 1993 for the centre is not exceeded due to a mapping error. The inconsistency only arises from 1.1(e) that requires that proposed new employment areas are in accordance with a strategy that is approved by the Director-General of the Department of Planning. The Maitland Urban Settlement Strategy 2012 was not endorsed by the Director-General of the Department of Planning. However, that is considered of minor significance and the proposal is consistent with the Hunter Regional Plan 2036. Therefore, it is considered that this inconsistency is justified.	
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT			
3.1 Residential Zones		Consistent	
Encourage a variety and choice of housing, minimise the impact of residential development on the environmental and resource lands and make efficient use of infrastructure and services.		The proposal will remove an area of R1 General Residential. However, this area was unlikely to be used for residential purposes. It would most likely be used to achieve a greater area of commercial floor space by locating commercial uses such as childcare centre or a medical centre in the residential zone or employing clause 5.3 of the MLEP to extend uses into the R1 zone. Shop top housing is permitted with consent in the B1 Neighbourhood Centre zone. Therefore some residential outcome is possible. If pursued this would introduce a new and exciting residential product to the area.	
3.4 Integrating Land Use and Transport		Consistent	
The objectives relate to the location of urban land and its proximity to public transport		The Chisholm Neighbourhood Centre is centrally located and well serviced by road,	

s117 DIRECTIONS	CONSISTENCY AND IMPLICATIONS
infrastructure and road networks, and improving access to housing, employment and services by methods other than private vehicles.	shareways and pedestrian links. A bus set down area is proposed that will provide an opportunity for interchange between different modes.
5. REGIONAL PLANNING	
5.1 Implementation of Regional Strategies	Consistent
This direction requires a draft amendment to be consistent with relevant state strategies that apply to the LGA.	The proposal is consistent with the relevant directions of the Hunter Regional Plan 2036.
6. LOCAL PLAN MAKING	
6.3 Site Specific Provisions	Consistent
The objective of this direction is to discourage unnecessarily restrictive site specific planning controls.	The proposal simplifies the development controls that apply to the site.

SECTION C – ENVIRONMENTAL, SOCIAL AND ECONOMIC IMPACT

8. 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?

Not applicable.

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

Not applicable.

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

The proposal is consistent with the intent of the Maitland Local Environmental Plan 1993 amendment that zoned 2.5Ha of land at Chisholm for a neighbourhood centre and applied a maximum FSR of 0.5:1 to the site. However, this amount of floor space (12,500m²) was inconsistent with the recommendations of the Maitland Centres Strategy 2009 at the time. Council updated that strategy in March 2016. In that update, Hill PDA raised concerns about the amount of floor space provided at Chisholm and recommended: *“The potential mix of retail and commercial offerings and the scale of any proposal would need to be carefully evaluated to ensure the continued viability of both [Thornton Town Centre and Chisholm Neighbourhood Centre] centres.”*

The proposed amendments to the Maitland Local Environmental Plan 2011 seek to reinforce this development control by limiting floor space on the site to 12,600m². However, a requirement will be included in the development control plan that a comprehensive economic impact assessment accompanies all development applications in the Chisholm Town Centre.

SECTION D – STATE AND COMMONWEALTH INTERESTS

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

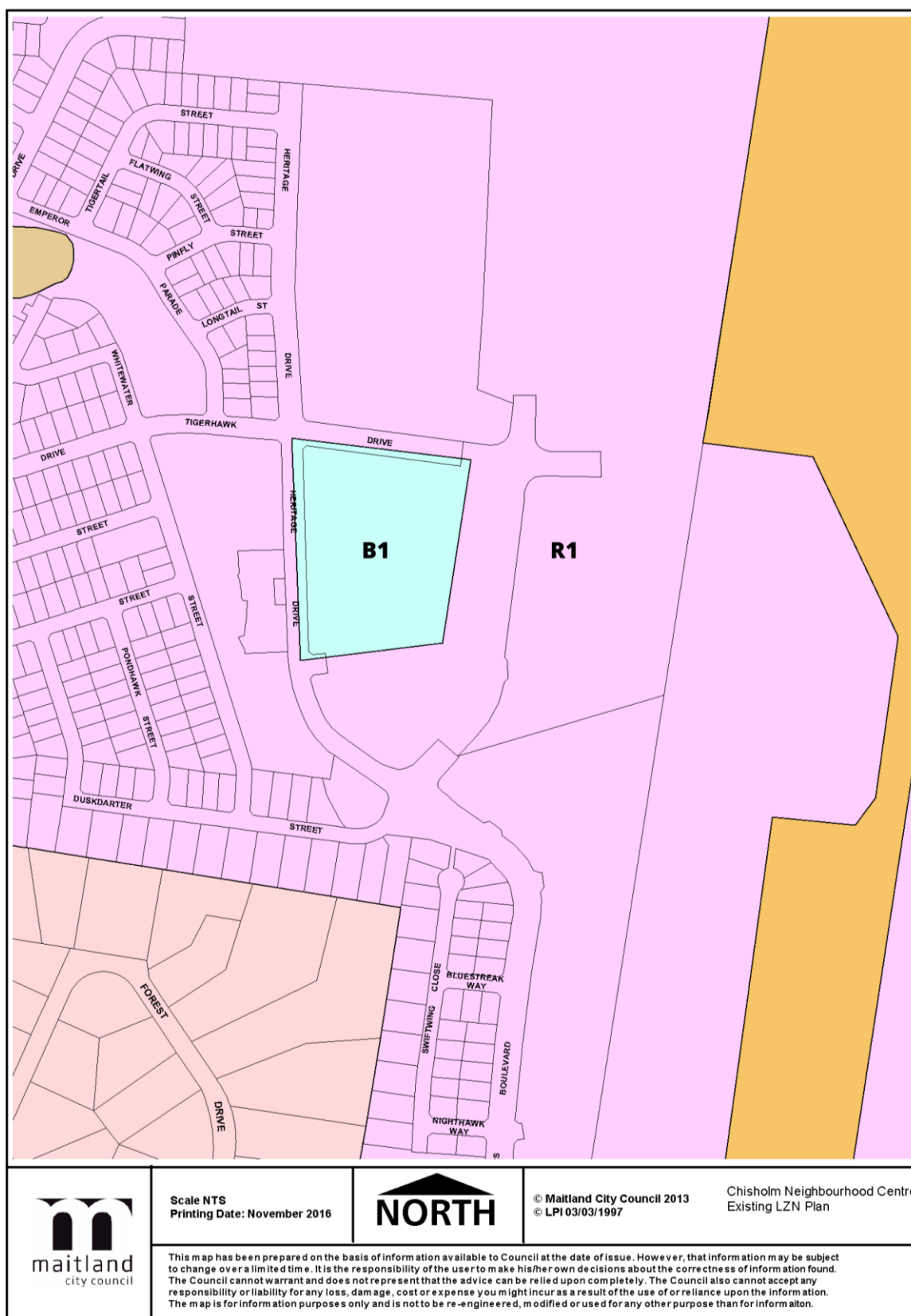
The site is within the Thornton North Urban Release Area that is serviced with all necessary public infrastructure to support the centre.

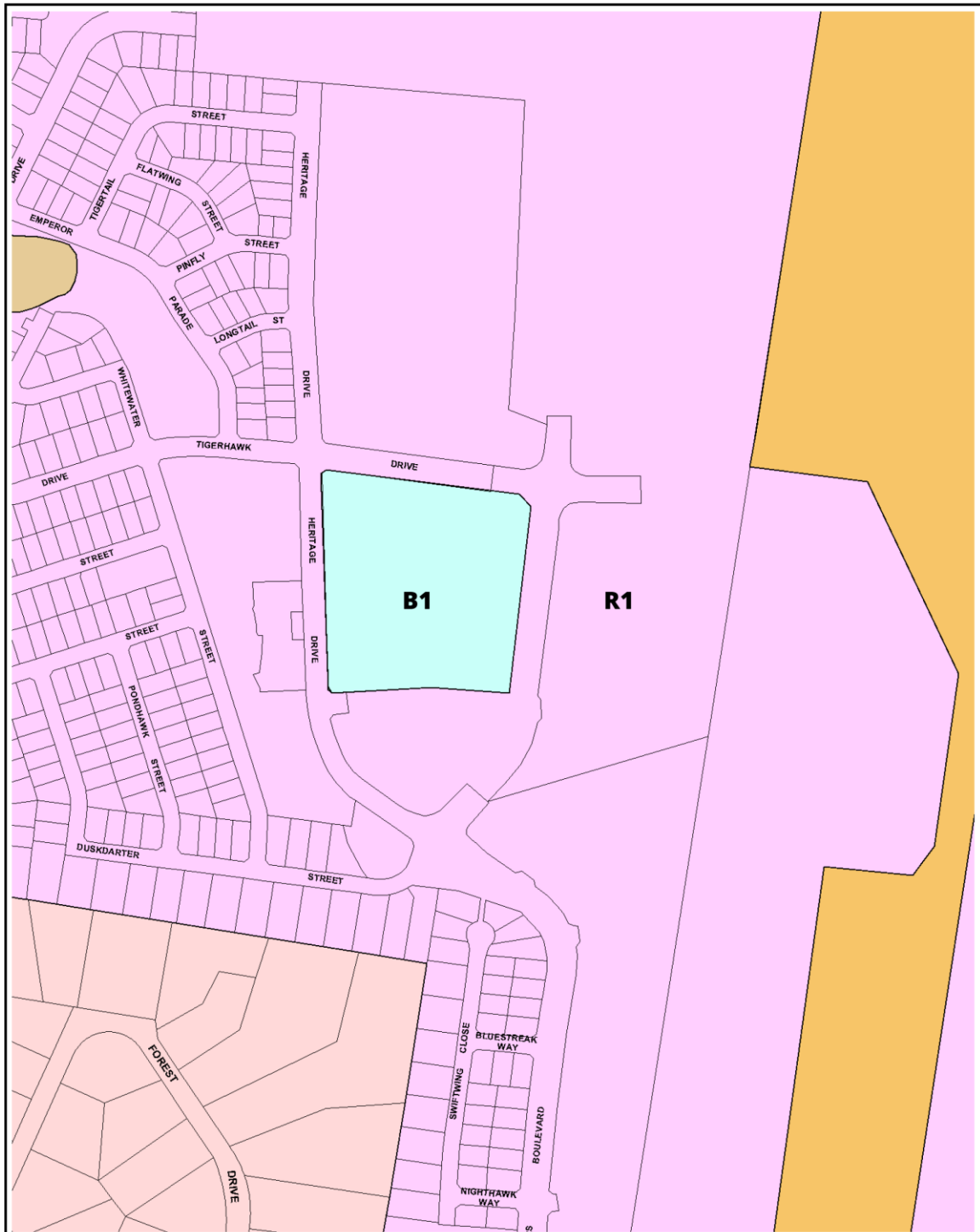
12. What are the views of State and Commonwealth public authorities consulted in accordance with the Gateway Determination?

No formal consultation with State and Commonwealth authorities has been undertaken at this stage. Consultation will occur in accordance with the conditions outlined in the Gateway Determination. However, consultation with other state agencies is not expected for this proposal.

PART 4: DRAFT LEP MAPS

The following Draft LEP maps support the proposal:





Scale NTS
Printing Date: November 2016

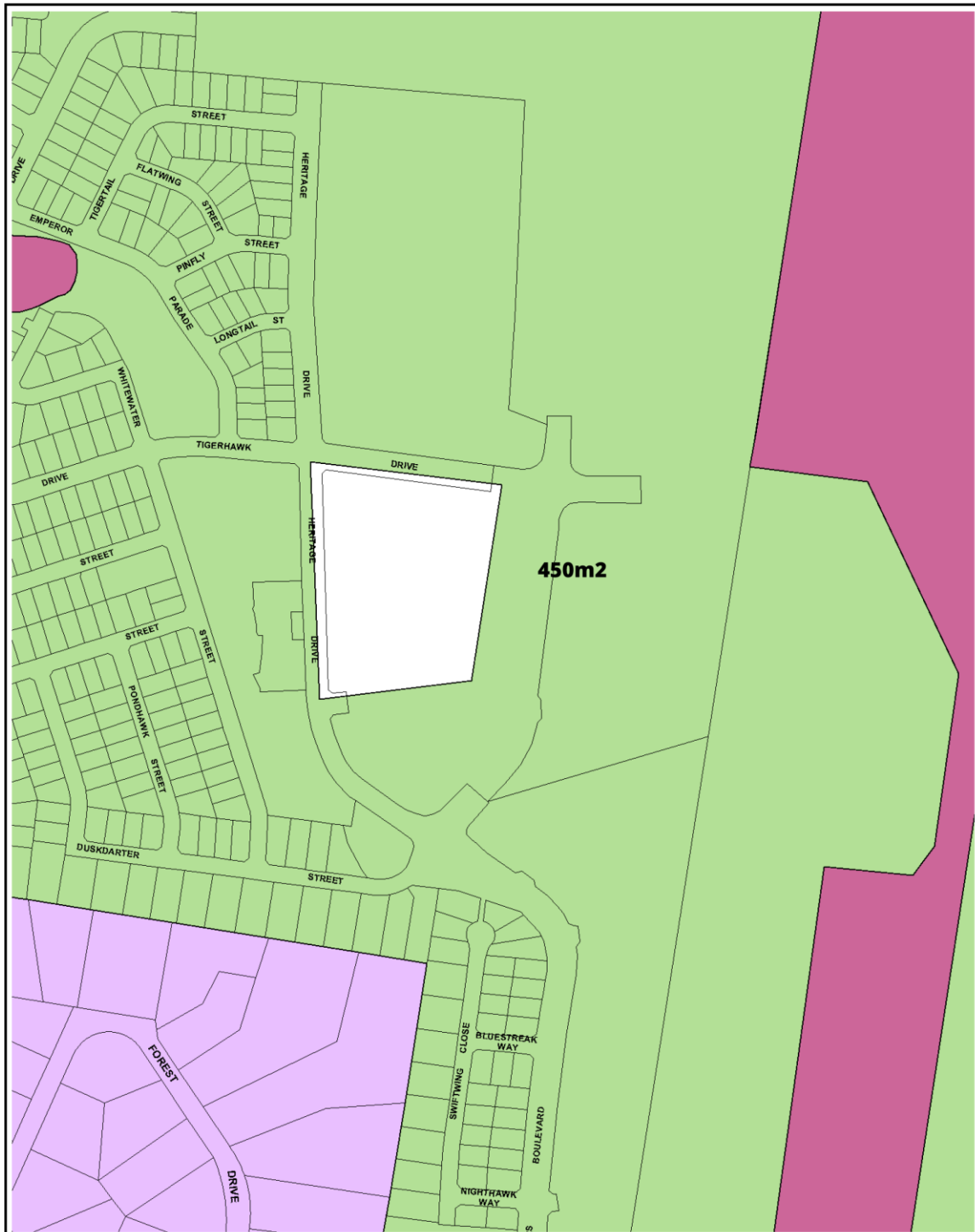


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Chisholm Neighbourhood Centre
Proposed LZN Plan

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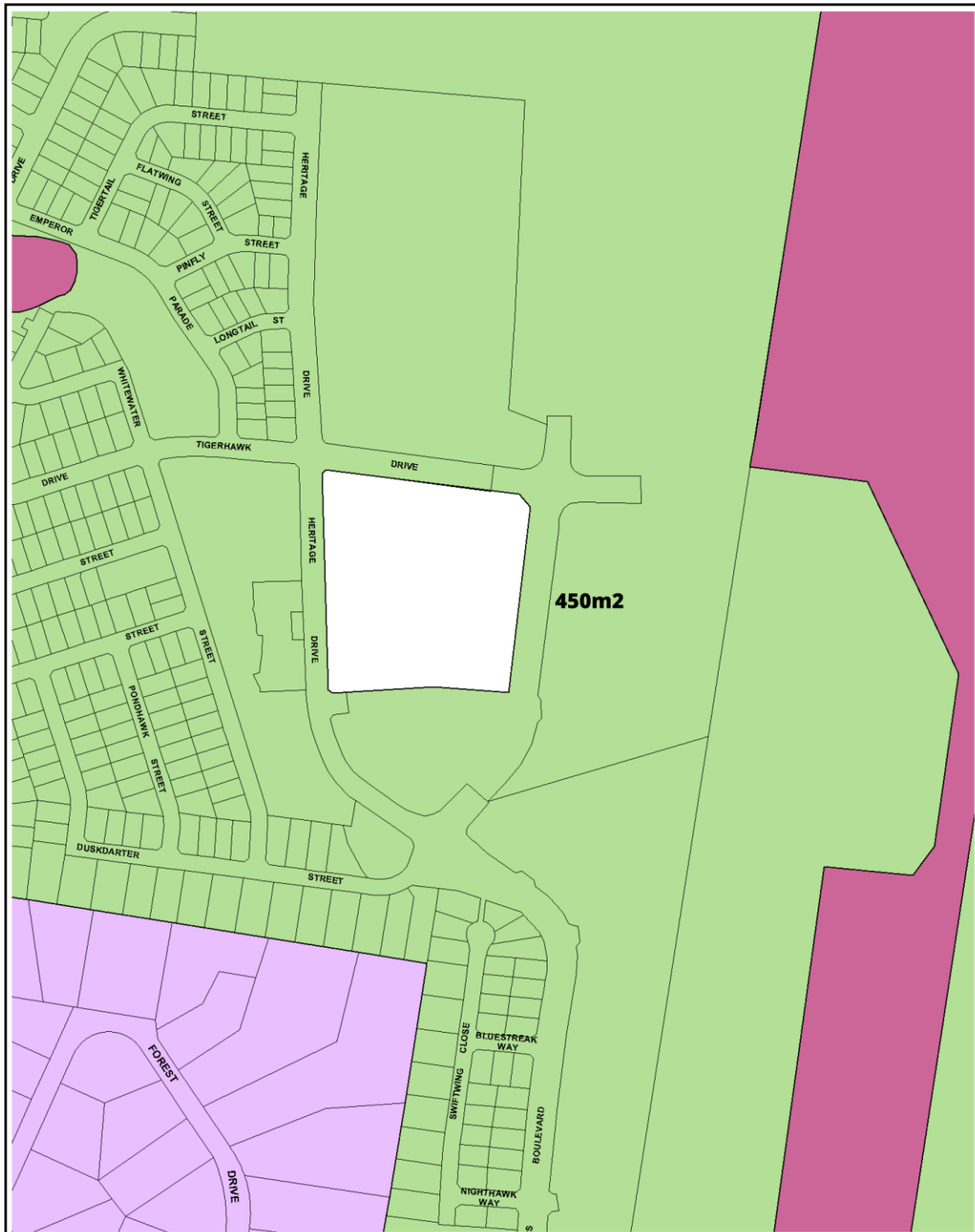


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Chisholm Neighbourhood Centre
Existing LSZ Plan

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Chisholm Neighbourhood Centre
Proposed LSZ Plan

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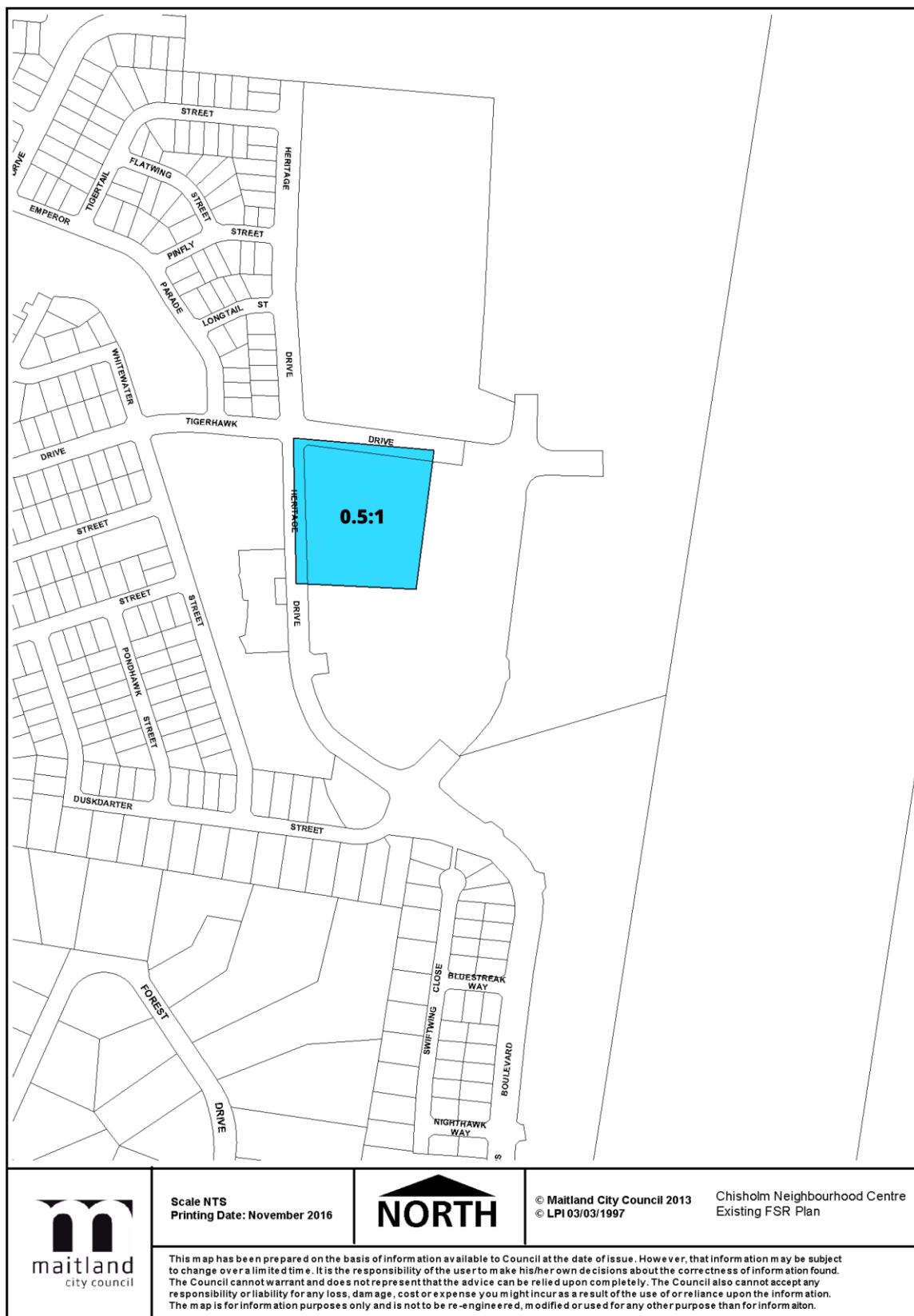


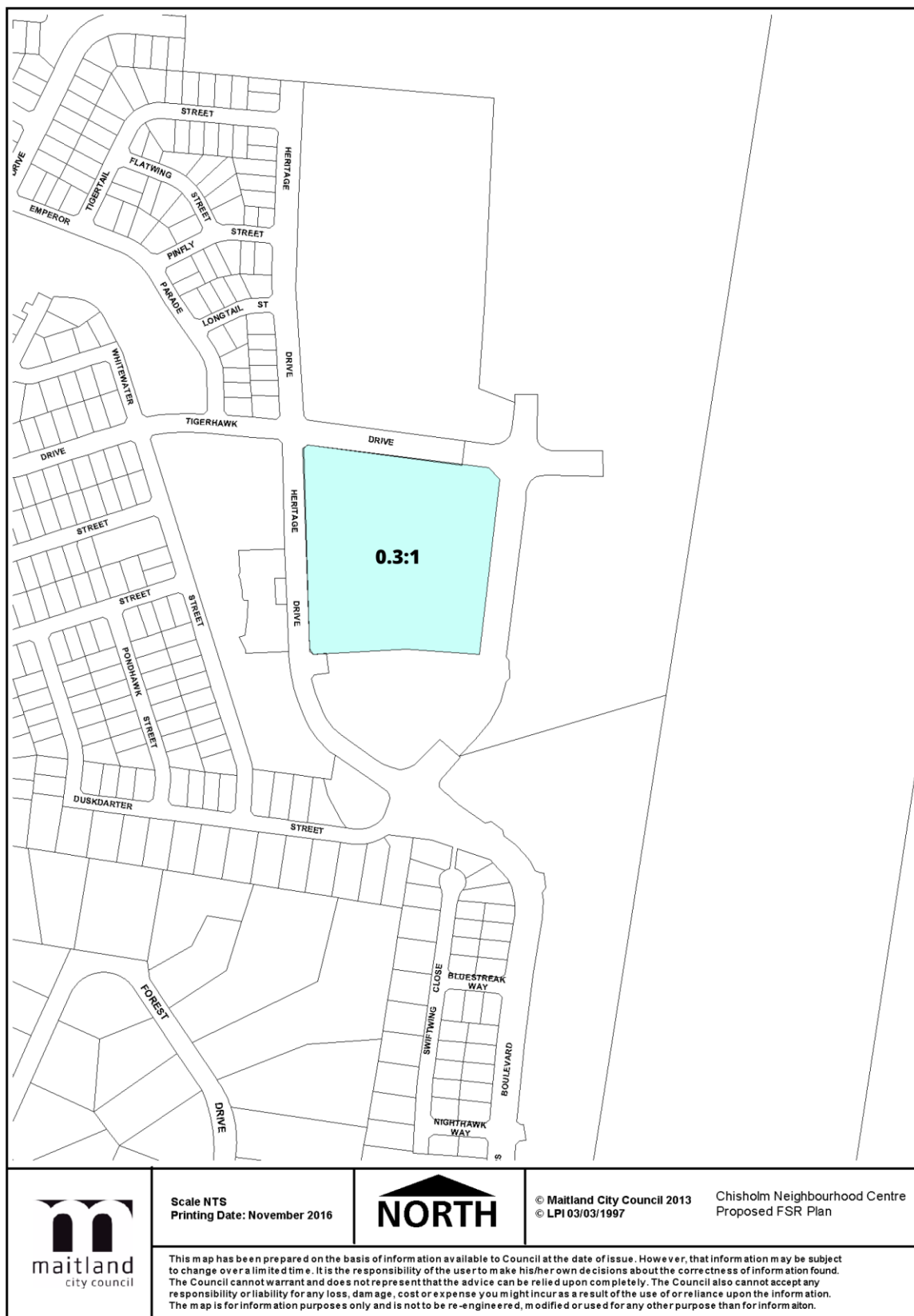
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Chisholm Neighbourhood Centre
Proposed HOB Plan

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PART 5: COMMUNITY CONSULTATION

In accordance with Section 57(2) of the Environmental Planning and Assessment Act 1979, community consultation must be undertaken by the local authority prior to approval of the planning proposal.

Consultation will be undertaken in accordance with the gateway determination.

PART 6: TIMEFRAMES

PROJECT TIMELINE	DATE
Anticipated commencement date (date of Gateway determination)	February 2017
Anticipated timeframe for the completion of required studies	March 2017
Timeframe for government agency consultation (pre and post exhibition as required by Gateway Determination) (21 days)	April 2017
Commencement and completion dates for public exhibition period	May 2017
Dates for public hearing (if required)	N/a
Timeframe for consideration of submissions	June 2017
Timeframe for the consideration of a proposal post exhibition	July 2017
Anticipated date RPA will forward the plan to the department to be made (if not delegated)	August 2017
Anticipated date RPA will make the plan (if delegated)	August 2017
Anticipated date RPA will forward to the department for notification (if delegated)	August 2017